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A COMMENTARY ON THE PRESENT INDEX LEGISLATION

A Commentary on the PRESENT INDEX . LEGISLATION . .

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WITH A PREFACE *by the*
MOST REV. DR. CLANCY
Bishop of Elphin . . . . .

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PREFACE.

On the 25th of January, 1897, the late Pope, Leo XIII., gave to the world an important letter, entitled "*Officiorum ac Munerum*," dealing with the Legislation of the Index, and its gravity and far-reaching influence entitle it to a more wide-spread knowledge than it has hitherto attained. Though intended primarily for the direction of Bishops and other ecclesiastical functionaries, occupying positions of responsibility, yet its import affects the public at large to so great an extent that its contents deserve to be placed within the reach of all. Hitherto little has been done in this country to secure this end. Commentaries have already appeared in most European languages; but until the issue of the present work, nothing had come before the public in an English dress to bring the people of these countries in touch with the most recent legislation on the Index.

The Pontifical letter referred to was intended, by its illustrious author, to form a preface to certain Rules which had been adopted and approved by the Congregation of the Index in reference to the Prohibition and Censorship of Books; and these two documents, together with the *Sollicita ac Provida* of Benedict XIV., which also finds a place in the present publication, bring the Church's legislation on the Index up to date. The scope of the entire Constitution, and, therefore, of the present work, which

purports to be a scientific commentary upon it, will be best understood from a brief analysis of the treatment followed in both.

The first part of the Pontifical Constitution goes *seriatim* into publications on Sacred Scripture, Ecclesiastical History, Philosophy, and Romance; and even descends to such apparently unimportant subjects as superstition, spiritualism, hypnotism, secret societies, and the socialistic literature of the Press. If doubts should arise as to whether such publications form suitable reading for the faithful, the present work fully explains the Rules for the "discernment of spirits" in such cases. Bishops and other Church functionaries are primarily responsible for the enforcement of these Rules.

The second part deals with the censorship of works which are about to be published. As required by previous legislation, all works dealing with Sacred Scripture, Theology, Ethics, Canon Law, or Church History, must be submitted to ecclesiastical censorship before publication; and the Rules for the guidance of Censors, appointed or selected, are clearly set forth in the following work. But, according to an opinion, which seems to meet with the practically unanimous approval of commentators on the subject, an important change has been introduced under Rule 35. Whereas, hitherto, the Bishops of the place in which the work was to be printed exercised the sole right of Censorship, now this duty may devolve upon the Bishop of any Diocese in which the work to be published will circulate.

At a time when the world is flooded with pernicious literature, and the poison not alone of immorality, but of unbelief, is being slowly but surely instilled into the public

mind, the importance of a book dealing with such a subject cannot be exaggerated. The evil is prevalent in Europe, America, and Australia, and, no doubt, much of the danger to Church and State, that is at present menacing most of our European countries, springs largely from the unbridled licence of the Press. Even here in Ireland, there are grave apprehensions entertained for the future from the same source. That the Bishops of the country are not unmindful of this danger is evidenced from the fact that in the Appendix to the *Acta et Decreta* of the Synod of Maynooth (1900), just published, the legislation dealt with in this work is given in full. Let us hope that the present book will prove helpful to both the Clergy and laity of the country who wish to place themselves in touch with the latest legislation on the Prohibition of Books, the Censorship of the Press, and the Rules of the Index.

✠ JOHN CLANCY, D.D.,
Bishop of Elphin.

AUTHOR'S PREFACE.

I WISH to hereby acknowledge my indebtedness to the following sources in the composition of this commentary on the present Index legislation: 1°. A few papers contributed to the *Irish Ecclesiastical Record* on the old legislation, a short time before the promulgation of the present legislation by the Rev. Dr. McDonald, Prefect of the Dunboyne, Maynooth College. In those papers the distinguished writer, from a comparison of the provisions of the old legislation with the requirements of the present day, forecasted the prescriptions of not a few of the present Rules of the Index. 2°. *De libris Prohibitis Commentarii*, by the Rev. Augustine Arndt, S.J., of Berlin, Professor of Canon Law in the High College of Cracow. This work is also on the old legislation. It is an exhaustive work of 300 pages. A special feature of it is, that it illustrates many of the old regulations by indicating some of the works proscribed under them, and placed on the old Index of proscribed books. 3°. *De prohibitione et Censura Librorum*, by the Rev. P. Vermeersh, S.J. This has the honour of being, as far I am aware, the pioneer commentary on the present Index legislation. Its merit may be estimated from the fact that it has already gone into a second edition. 4°. *Il Monitore.* The work, which I shall cite under this title, is an Italian commentary on the present legislation,

published under the initials M. C. G., in an Italian periodical, by a very eminent Italian ecclesiastic, who is at present a member of one of the Sacred Congregations. After its original publication in the periodical mentioned, it was published in book-form in Naples; and so highly was it esteemed that in little more than one year it ran through more than one edition. It is a work of about 100 pages. In style, it is clear, pithy, and concise. It is needless to say that it is a work of the very highest authority. If I have differed from its illustrious author in the interpretation of a few clauses of the Rules, it is because the opinion that I have followed is the more lenient, and appeared to me to be at least probable. 5°. *Commentaire de la Constitution Apostolique, Officiorum,* par M. L'Abbé Pèries. 6°. *The Censorship of the Church of Rome and its influence upon the production and distribution of Literature,* by Geo. Haven Putnam. Although the author states that in its composition he received valuable assistance from some American ecclesiastics, and, doubtlessly, made efforts to treat his subject from the true and proper standpoint, yet it bears clear evidence of being by a non-Catholic. The author would scarcely claim for his work that it is an exposition in any way of the present Index legislation (which, of course, regulates at the present time the production and distribution of literature by indicating the boundaries of orthodoxy in the treatment of the different subjects that may present themselves to a writer, and in demanding the censorship of books on a limited number of subjects); nor that it is an explanation of the theological or ethical reasons why some classes of works ought to be, and are forbidden, nor a

defence of the Church's attitude in claiming the right of censorship over other classes. The scope of the author is rather to arrange chronologically the various acts of legislation of the Church, and also of a great many of the civil governments, ancient and modern, dealing with literature. Of those acts of legislation it is a very full collection. It is in two large volumes. 7º. Preface to the new Index of Proscribed Books, by the Rev. Dr. Esser, O.P., Secretary of the Sacred Congregation of the Index. Perhaps some of my readers may recall with what learning and reverence this profound theologian lectured in the *Alma Mater* of the Irish priesthood on the philosophical system of him who is the pride not only of all the sons of St. Dominic, but of the whole Christian world. In the preface I refer to he states what is the policy of the Sacred Congregation towards bad books that are not denounced to it; he explains the general relation between the Index legislation and the law of nature, as it is called; the relation of the *Sollicita ac Provida* to the rest of the legislation, and the relation of the Index of Proscribed Books to the Rules of the Index. He, moreover, elucidates a few of the more obscure clauses of the Rules, and gives some reasons why the Sacred Congregation has expunged a number of books from its Index. 8º. Commentary on the present legislation by the Rev. Joseph Pennacchi. This distinguished theologian and historian is also author of the famous work *In Honorii causa*, and of an exhaustive commentary on the *Apostolicae Sedis*. He was lecturer of Ecclesiastical History for years in the Propaganda schools, and for some time was Consultor to the Sacred Congregation of the Index. Apart altogether from the extrinsic authority which the learning and experience of its

author would invest this work with, the reasonings with which every opinion is sustained would place it in the forefront of the works written on the Index legislation. In all the questions treated of by P. Pennacchi, I have, without exception, I think, followed his opinion.

There are two other works bearing on the present Index legislation quite recently published: *Valeur des Décisions Doctrinales et Disciplinaires du Saint Siège*, published by Gabriel Beauchesne et Cie, Paris, and *Die Verbotenen Bücher*, by the Rev. Joseph Hilgers, S.J., which I regret I have been unable to consult before sending to the press.

I wish also to here express my indebtedness to the Rev. Dr. Hogan, Editor of the *Irish Ecclesiastical Record*, for allowing me to use freely some papers contributed by me to the *Record* some years ago on this subject.

Finally, I wish to hereby convey my thanks to the Rev. James Rabbitte, S.J., for having revised the proofs of Section I. before their original publication in the *Irish Ecclesiastical Record;* and to the Rev. Nicholas Walsh, O.S.F., for having suggested many practical questions under some of the Rules.

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"Stella Maris" Hospice,
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A COMMENTARY ON THE PRESENT INDEX LEGISLATION.

PART I.

TEXT OF TRANSLATION.

SANCTISSIMI DOMINI NOSTRI LEONIS DIVINA PROVIDENTIA PAPÆ XIII CONSTITUTIO APOSTOLICA DE PROHIBITIONE ET CENSURA LIBRORUM.

LEO EPISCOPUS SERVUS SERVORUM DEI AD PERPETUAM REI MEMORIAM.

OFFICIORUM AC MUNERUM, quæ diligentissime sanctissimeque servari in hoc apostolico fastigio oportet, hoc caput atque hæc summa est, assidue vigilare atque omni ope contendere, ut integritas fidei morumque christianorum ne quid detrimenti capiat. Idque, si unquam alias, maxime est necessarium hoc tempore, cum, effrenatis licentia ingeniis ac moribus, omnis fere doctrina, quam Servator hominum Jesus Christus tuendam Ecclesiæ suæ ad salutem generis humani permisit, in quotidianum vocatur certamen atque discrimen. Quo in certamine variæ profecto atque innumerabiles sunt inimicorum calliditates artesque nocendi: sed cum primis est plena periculorum intemperantia scribendi, disseminandique in vulgus quæ prave scripta sunt. Nihil enim cogitari potest perniciosius ad inquinandos animos per contemptum religionis perque illecebras multas peccandi. Quamobrem tanti metuens mali, et incolumitatis fidei ac morum custos et vindex Ecclesia, maturrime intellexit, remedia contra

ejusmodi pestem esse sumenda: ob eamque rem id perpetuo studuit, ut homines, quoad in se esset, pravorum librorum lectione, hoc est pessimo veneno, prohiberet. Vehemens hac in re studium beati Pauli viderunt proxima originibus tempora: similique ratione perspexit sanctorum Patrum vigilantiam, jussa Episcoporum, Conciliorum decreta, omnis consequens ætas.

Præcipue vero monumenta litterarum testantur, quanta cura diligentiaque in eo evigilaverint Romani Pontifices, ne hæreticorum scripta, malo publico, impune serperent. Plena est exemplorum vetustas. Anastasius I scripta Origenis perniciosiora, Innocentius I Pelagii, Leo Magnus Manichæorum opera omnia, gravi edicto damnavere. Cognitæ eadem de re sunt litteræ *Decretales* de recipiendis et non recipiendis libris, quas Gelasius opportune dedit. Similiter, decursu ætatum, Monothelitarum, Abælardi, Marsilii Patavini, Wiclefi et Hussii, pestilentes libros, sententia Apostolicæ Sedis confixit.

Sæculo autem decimo quinto, comperta arte nova libraria, non modo in prave scripta animadversum est, quæ lucem aspexissent, sed etiam ne qua ejus generis posthac ederentur caveri cœptum. Atque hanc providentiam non levis aliqua causa, sed omnino tutela honestatis ac salutis publicæ per illud tempus postulabat: propterea quod artem per se optimam, maximarum utilitatum parentem, christianæ gentium humanitati propagandæ natam, in instrumentum ingens ruinarum nimis multi celeriter deflexerant. Magnum prave scriptorum malum, ipsa vulgandi celeritate majus erat ac velocius effectum. Itaque saluberrimo consilio cum Alexander VI, tum Leo X, decessores Nostri, certas tulere leges, utique congruentes iis temporibus ac moribus, quæ officinatores librarios in officio continerent.

Mox graviore exorto turbine, multo vigilantius ac fortius oportuit malarum hæreseon prohibere contagia. Idcirco idem Leo X, posteaque Clemens VII, gravissime sanxerunt,

ne cui legere, neu retinere, Lutheri libros fas esset. Cum vero pro illius ævi infelicitate crevisset præter modum atque in omnes partes pervasisset perniciosorum librorum impura colluvies, ampliore ac præsentiore remedio opus esse videbatur. Quod quidem remedium opportune primus adhibuit Paulus IV decessor Noster, videlicet elencho proposito scriptorum et liborum, a quorum usu cavere fideles oporteret. Non ita multo post Tridentinæ Synodi Patres gliscentem scribendi legendique licentiam novo consilio coercendam curaverunt. Eorum quippe voluntate jussuque lecti ad id præsules et theologi non solum augendo perpoliendoque Indici, quem Paulus IV ediderat, dedere operam, sed Regulas etiam conscripsere, in editione, lectione, usuque librorum servandas: quibus Regulis Pius IV apostolicæ auctoritatis robur adjecit.

Verum salutis publicæ ratio, quæ Regulas Tridentinas initio genuerat, novari aliquid in eis, labentibus ætatibus, eadem jussit. Quamobrem Romani Pontifices nominatimque Clemens VIII, Alexander VII, Benedictus XIV, gnari temporum et memores prudentiæ plura decrevere, quæ ad eas explicandas atque accommodandas tempori valuerunt.

Quæ res præclare confirmant, præcipuas Romanorum Pontificum curas in eo fuisse perpetuo positas, ut opinionum errores morumque corruptelam, geminam hanc civitatum labem ac ruinam, pravis libris gigni ac disseminari solitam, a civili hominum societate defenderent. Neque fructus fefellit operam, quamdiu in rebus publicis administrandis rationi imperandi ac prohibendi lex æterna præfuit, rectoresque civitatum cum potestate sacra in unum consensere.

Quæ postea consecuta sunt, nemo nescit. Videlicet cum adjuncta rerum atque hominum sensim mutavisset dies, fecit id Ecclesia prudenter more suo, quod, perspecta natura temporum, magis expedire atque utiles esse hominum saluti videretur. Plures Regularum Indicis præscriptiones, quæ

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excidisse opportunitate pristina videbantur, vel decreto ipsa sustulit, vel more usuque alicubi invalescente antiquari benigne simul ac provide sivit. Recentiore memoria, datis ad Archiepiscopos Episcoposque e principatu pontificio litteris, Pius IX Regulam X magna ex parte mitigavit. Præterea, propinquo jam Concilio magno Vaticano, doctis viris, ad argumenta paranda delectis, id negotium dedit, ut expenderent atque æstimarent Regulas Indicis universas, judiciumque ferrent, quid de iis facto opus esset. Illi commutandas, consentientibus sententiis, judicavere. Idem se et sentire et petere a Concilio plurimi ex Patribus aperte profitebantur. Episcoporum Galliæ extant hac de re litteræ quarum sententia est, necesse esse et sine cunctatione faciendum, ut *illæ Regulæ et universa res Indicis novo prorsus modo nostræ ætati melius attemperato et observatu faciliori instaurarentur.* Idem eo tempore judicium fuit Episcoporum Germaniæ, plane petentium, ut *Regulæ Indicis . . . recenti revisioni et redactioni submittantur.* Quibus Episcopi concinunt ex Italia aliisque e regionibus complures.

Qui quidem omnes, si temporum, si institutorum civilium, si morum popularium habeatur ratio, sane æqua postulant et cum materna Ecclesiæ sanctæ caritate convenientia. Etenim in tam celeri ingeniorum cursu, nullus est scientiarum campus, in quo non litteræ licentius excurrant: inde pestilentissimorum librorum quotidiana colluvies. Quod vero gravius est, in tam grandi malo non modo connivent, sed magnam licentiam dant leges publicæ. Hinc ex una parte, suspensi religione animi plurimorum: ex altera, quidlibet legendi impunita copia.

Hisce igitur incommodis medendum rati, duo facienda duximus, ex quibus norma agendi in hoc genere certa et perspicua omnibus suppetat. Videlicet librorum improbatæ lectionis diligentissime recognosci Indicem; subinde, maturum cum fuerit, ita recognitum vulgari jussimus. Præterea

ad ipsas Regulas mentem adjecimus, easque decrevimus, incolumi earum natura, efficere aliquanto molliores, ita plane ut iis obtemperare, dummodo quis ingenio malo non sit, grave arduumque esse non possit. In quo non modo exempla sequimur decessorum Nostrorum, sed maternum Ecclesiæ studium imitamur : quæ quidem nihil tam expetit, quam se impertire benignam, sanandosque ex se natos ita semper curavit, curat, ut eorum infirmitati amanter studioseque parcat.

Itaque matura deliberatione, adhibitisque S. R. E. Cardinalibus e sacro Consilio libris notandis, edere *Decreta Generalia* statuimus, quæ infra scripta, unaque cum hac Constitutione conjuncta sunt : quibus idem sacrum Consilium posthac utatur unice, quibusque catholici homines toto orbe religiose pareant. Ea vim legis habere sola volumus, abrogatis *Regulis* sacrosanctæ Tridentinæ Synodi jussu editis, *Observationibus*, *Instructione*, *Decretis*, *Monitis*, et quovis alio decessorum Nostrorum hac de re statuto jussuque, una excepta Constitutione, Benedicti XIV *Sollicita ac provida*, quam, sicut adhuc viguit, ita in posterum vigere integram volumus.

DECRETA GENERALIA

DE PROHIBITIONE ET CENSURA LIBRORUM.

TITULUS I.

DE PROHIBITIONE LIBRORUM.

CAPUT I.

DE PROHIBITIS APOSTATARUM, HÆRETICORUM, SCHISMATICORUM, ALIORUMQUE SCRIPTORUM LIBRIS.

1. Libri omnes, qui ante annum MDC. aut Summi Pontifices, aut Concilia œcumenica damnarunt, et in novo Indice non recensentur, eodem modo damnati habeantur, sicut olim damnati fuerunt : iis exceptis qui per hæc Decreta Generalia permittuntur.

2. Libri apostatarum, hæreticorum, schismaticorum et quorumcumque scriptorum hæresim vel schisma propugnantes, aut ipsa religionis fundamenta utcumque evertentes, omnino prohibentur.

3. Item prohibentur acatholicorum libri, qui ex professo de religione tractant, nisi constet nihil in eis contra fidem catholicam contineri.

4. Libri eorumdem auctorum, qui ex professo de religione non tractant, sed obiter tantum fidei veritates attingunt, jure ecclesiastico prohibiti non habeantur, donec speciali decreto proscripti haud fuerint.

CAPUT II.

DE EDITIONIBUS TEXTUS ORIGINALIS ET VERSIONUM NON VULGARIUM SACRÆ SCRIPTURÆ.

5. Editiones textus originalis et antiquarum versionum catholicarum Sacræ Scripturæ, etiam Ecclesiæ Orientalis, ab acatholicis quibuscumque publicatæ, etsi fidelitur et integre editæ appareant, iis dumtaxat, qui studiis theologicis vel biblicis dant operam, dummodo tamen non impugnentur in prolegomenis aut adnotationibus catholicæ fidei dogmata, permittuntur.

6. Eadem ratione, et sub iisdem conditionibus, permittuntur aliæ versiones Sacrorum Bibliorum sive latina, sive alia lingua non vulgari ab acatholicis editæ.

CAPUT III.

DE VERSIONIBUS VERNACULIS SACRÆ SCRIPTURÆ.

7. Cum experimento manifestum sit, si Sacra Biblia vulgari lingua passim sine discrimine permittantur, plus inde, ob hominum temeritatem, detrimenti, quam utilitatis oriri; versiones omnes in lingua verna-

cula, etiam a viris catholicis confectæ, omnino prohibentur, nisi fuerint ab Apostolica Sede approbatæ, aut editæ sub vigilantia Episcoporum cum adnotationibus desumptis ex Sanctis Ecclesiæ Patribus, atque ex doctis catholicisque scriptoribus.

8. Interdicuntur versiones omnes Sacrorum Bibliorum, quavis vulgari lingua ab acatholicis quibuscumque confectæ, atque illæ præsertim, quæ per Societates Biblicas, a Romanis Pontificibus non semel damnatas, divulgantur, cum in iis saluberrimæ Ecclesiæ leges de divinis libris edendis funditus posthabeantur.

1 Hæ nihilominus versiones iis, qui studiis theologicis vel biblicis dant operam, permittuntur : iis servatis, quæ supra (num. 5) statuta sunt.

CAPUT IV

DE LIBRIS OBSCENIS.

9. Libri, qui res lascivas seu obscenas ex professo tractant, narrant, aut docent, cum non solum fidei, sed et morum, qui hujusmodi librorum lectione facile corrumpi solent, ratio habenda sit, omnino prohibentur.

10. Libri auctorum sive antiquorum, sive recentiorum, quos classicos vocant, si hac ipsa turpitudinis labe infecti sunt, propter sermonis elegantiam et proprietatem, iis tantum permittuntur, quos officii aut magisterii ratio excusat : nulla tamen ratione pueris vel adolescentibus, nisi solerti cura expurgati, tradendi aut prælegendi erunt.

CAPUT V.

DE QUIBUSDAM SPECIALIS ARGUMENTI LIBRIS.

11. Damnantur libri, in quibus Deo, aut Beatæ Virgini Mariæ vel Sanctis, aut Catholicæ Ecclesiæ ejusque Cultui, vel Sacramentis, aut Apostolicæ Sedi detrahitur. Eidem reprobationis judicio subjacent ea opera, in quibus inspirationis Sacræ Scripturæ conceptus pervertitur aut ejus extensio nimis coarctatur. Prohibentur quoque libri, qui data opera Ecclesiasticam Hierarchiam, aut statum clericalem vel religiosum probris afficiunt.

12. Nefas esto libros edere, legere aut retinere in quibus sortilegia divinatio, magia, evocatio spirituum, aliæque hujus generis superstitiones docentur, vel commendantur.

13. Libri aut scripta, quæ narrant novas apparitiones, revelationes, visiones, prophetias, miracula, vel quæ novas inducunt devotiones, etiam sub prætextu quod sint privatæ, si publicentur absque legitima Superiorum Ecclesiæ licentia, proscribuntur.

14. Prohibentur pariter libri, qui duellum, suicidium, vel divortium licita statuunt, qui de sectis massonicis, vel aliis ejusdem generis societatibus agunt, easque utiles et non perniciosas Ecclesiæ et civili societati contendunt, et qui errores ab Apostolica Sede proscriptos tuentur.

CAPUT VI.

DE SACRIS IMAGINIBUS ET INDULGENTIIS.

15. Imagines quomodocumque impressæ Domini Nostri Jesu Christi Beatæ Mariæ Virginis, Angelorum atque Sanctorum, vel aliorum Ser-

vorum Dei ab Ecclesiæ sensu et decretis difformes, omnino vetantur. Novæ vero, sive preces habeant adnexas, sive absque illis edantur, sine Ecclesiasticæ potestatis licentia non publicentur.

16. Universis interdicitur indulgentias apocryphas, et a Sancta Sede Apostolica proscriptas vel revocatas quomodocumque divulgare. Quæ divulgatæ jam fuerint, de manibus fidelium auferantur.

17. Indulgentiarum libri omnes, summaria, libelli, folia, etc., in quibus earum concessiones continentur, non publicentur absque competentis auctoritatis licentia.

CAPUT VII.

DE LIBRIS LITURGICIS ET PRECATORIIS.

18. In authenticis editionibus Missalis, Breviarii, Ritualis, Cæremonialis Episcoporum, Pontificalis Romani aliorumque librorum liturgicorum a Sancta Sede Apostolica approbatorum, nemo quidquam immutare præsumat: si secus factum fuerit, hæ novæ editiones prohibentur.

19. Litaniæ omnes, præter antiquissimas et communes, quæ in Breviariis, Missalibus, Pontificalibus ac Ritualibus continentur, et præter Litanias de Beata Virgine, quæ in sacra Æde Lauretana decantari solent, et Litanias Sanctissimi Nominis Jesu jam a Sancta Sede approbatas, non edantur sine revisione et approbatione Ordinarii.

20. Libros, aut libellos precum, devotionis, vel doctrinæ institutionisque religiosæ, moralis, asceticæ, mysticæ, aliosque hujusmodi, quamvis ad fovendam populi christiani pietatem conducere videantur, nemo præter legitimæ auctoritatis licentiam publicet: secus prohibit habeantur.

CAPUT VIII.

DE DIARIIS, FOLIIS ET LIBELLIS PERIODICIS.

21. Diaria, folia et libelli periodici, qui religionem aut bonos mores data opera impetunt, non solum naturali, sed etiam ecclesiastico jure proscripti habeantur.

Curent autem Ordinarii, ubi opus sit, de hujusmodi lectionis periculo et damno fideles opportune monere.

22. Nemo e catholicis, præsertim e viris ecclesiasticis, in hujusmodi diariis, vel foliis, vel libellis periodicis, quidquam, nisi suadente justa et rationabili causa, publicet.

CAPUT IX.

DE FACULTATE LEGENDI ET RETINENDI LIBROS PROHIBITOS.

23. Libros sive specialibus, sive hisce Generalibus Decretis proscriptos, ii tantum legere et retinere poterunt, qui a Sede Apostolica, aut ab illis, quibus vices suas delegavit, opportunas fuerint consecuti facultates.

24. Concedendis licentiis legendi et retinendi libros quoscumque prohibitos Romani Pontifices Sacram Indicis Congregationem præposuere. Eadem nihilominus potestate gaudent, tum Suprema Sancti

Officii Congregatio, tum Sacra Congregatio de Propaganda Fide pro regionibus suo regimini subjectis. Pro Urbe tantum, hæc facultas competit etiam Sacri Palatii Apostolici Magistro.

25. Episcopi aliique Prælati jurisdictione quasi episcopali pollentes, pro singularibus libris, atque in casibus tantum urgentibus, licentiam concedere valeant. Quod si iidem generalem a Sede Apostolica impetraverint facultatem, ut fidelibus libros proscriptos legendi retinendique licentiam impertiri valeant, eam nonnisi cum delectu et ex justa et rationabili causa concedant.

26. Omnes qui facultatem apostolicam consecuti sunt legendi et retinendi libros prohibitos, nequeant ideo legere et retinere libros quoslibet, aut ephemerides ab Ordinariis locorum proscriptas, nisi eis in apostolico indulto expressa facta fuerit potestas legendi et retinendi libros a quibuscumque damnatos. Meminerint insuper qui licentiam legendi libros prohibitos obtinuerunt, gravi se præcepto teneri hujusmodi libros ita custodire, ut ad aliorum manus non perveniant.

CAPUT X.

DE DENUNCIATIONE PRAVORUM LIBRORUM.

27. Quamvis catholicorum omnium sit, maxime eorum, qui doctrina prævalent, perniciosos libros Episcopis, aut Apostolicæ Sedi denunciare; id tamen speciali titulo pertinet ad Nuntios, Delegatos Apostolicos, locorum Ordinarios, atque Rectores Universitatum doctrinæ laude florentium.

28. Expedit ut in pravorum librorum denunciatione non solum libri titulus indicetur, sed etiam, quoad fieri potest, causæ exponantur ob quas liber censura dignus existimatur. Iis autem ad quos denunciatio defertur, sanctum erit, denunciantium nomina secreta servare.

29. Ordinarii, etiam tamquam Delegati Sedis Apostolicæ, libros aliaque scripta noxia in sua Diœcesi edita vel diffusa proscribere, et e manibus fidelium auferre studeant. Ad Apostolicum judicium ea deferant opera vel scripta, quæ subtilius examen exigunt, vel in quibus ad salutarem effectum consequendum, supremæ auctoritatis sententia requiri videatur.

TITULUS II.

DE CENSURA LIBRORUM.

CAPUT I.

DE PRÆLATIS LIBRORUM CENSURÆ PRÆPOSITIS.

30. Penes quos potestas sit sacrorum bibliorum, editiones et versiones adprobare vel permittere ex iis liquet, quæ supra (num. 7) statuta sunt.

31. Libros ab Apostolica Sede proscriptos nemo audeat iterum in lucem edere: quod si ex gravi et rationabili causa, singularis aliqua exceptio hac in re admittenda videatur, id nunquam fiet, nisi obtenta

prius Sacræ Indicis Congregationis licentia, servatisque conditionibus ab ea præscriptis.

32. Quæ ad causas Beatificationum et Canonizationum Servorum Dei utcumque pertinent, absque beneplacito Congregationis Sacris Ritibus tuendis præpositæ publicari nequeunt.

33. Idem dicendum de Collectionibus Decretorum singularum Romanorum Congregationum; hæ nimirum Collectiones edi nequeant; nisi obtenta prius licentia, et servatis conditionibus a moderatoribus uniuscujusque Congregationis præscriptis.

34. Vicarii et Missionarii Apostolici Decreta Sacræ Congregationis Propagandæ Fidei præpositæ de libris edendis fideliter servent.

35. Approbatio librorum, quorum censura præsentium Decretorum vi Apostolicæ Sedi vel Romanis Congregationibus non reservatur, pertinet ad Ordinarium loci in quo publici juris fiunt.

36. Regulares, præter Episcopi licentiam, meminerint teneri se, sacri Concilii Tridentini decreto, operis in lucem edendi facultatem a Prælato, cui subjacent, obtinere. Utraque autem concessio in principio vel in fine operis imprimatur.

37. Si auctor Romæ degens librum non in Urbe, sed alibi imprimere velit, præter approbationem Cardinalis Urbis Vicarii et Magistri Sacri Palatii Apostolici, alia non requiritur.

CAPUT II.

DE CENSORUM OFFICIO IN PRÆVIO LIBRORUM EXAMINE.

38. Curent Episcopi, quorum muneris est facultatem libros imprimendi concedere, ut eis examinandis spectatæ pietatis et doctrinæ viros adhibeant, de quorum fide et integritate sibi polliceri queant, nihil eos gratiæ daturos, nihil odio, sed omni humano affectu posthabito, Dei dumtaxat gloriam spectaturos et fidelis populi utilitatem.

39. De variis opinionibus atque sententiis (juxta Benedicti XIV præceptum) animo a præjudiciis omnibus vacuo, judicandum sibi esse censores sciant. Itaque nationis, familiæ, scholæ, instituti affectum excutiant, studia partium seponant. Ecclesiæ sanctæ dogmata, et communem Catholicorum doctrinam, quæ Conciliorum generalium decretis, Romanorum Pontificum Constitutionibus, atque Doctorum consensu continentur, unice præ oculis habeant.

40. Absoluto examine, si nihil publicationi libri obstare videbitur, Ordinarius, in scriptis et omnino gratis, illius publicandi licentiam in principio vel in fine operis imprimendam auctori concedat.

CAPUT III.

DE LIBRIS PRÆVIÆ CENSURÆ SUBJICIENDIS.

41. Omnes fideles tenentur prævie censuræ ecclesiasticæ eos saltem subjicere libros, qui divinas Scripturas, sacram Theologiam, Historiam ecclesiasticam, Jus Canonicum, Theologiam naturalem, Ethicen, aliasve hujusmodi religiosas aut morales disciplinas respiciunt, ac generaliter scripta omnia, in quibus religionis et morum honestatis specialiter interest.

42. Viri e clero sæculari ne libros quidem, qui de artibus scientiisque mere naturalibus tractant inconsultis suis Ordinariis publicent, ut obsequentis animi erga illos exemplum præbeant.

Iidem prohibentur quominus, absque prævia Ordinariorum venia, diaria vel folia periodica moderanda suscipiant.

CAPUT IV.

DE TYPOGRAPHIS ET EDITORIBUS LIBRORUM.

43. Nullus liber censuræ ecclesiasticæ subjectus excudatur, nisi in principio nomen et cognomen tum auctoris, tum editoris præferat, locum insuper et annum impressionis atque editionis. Quod si aliquo in casu, justas ob causas, nomen auctoris tacendum videatur, id permittendi penes Ordinarium potestas sit.

44. Noverint Typographi et Editores librorum novas ejusdem operis approbati editiones, novam approbationem exigere, hanc insuper textui originali tributam, ejus in aliud idioma versioni non suffragari.

45. Libri ab Apostolica Sede damnati, ubique gentium prohibiti censeantur, et in quodcumque vertantur idioma.

46. Quicumque librorum venditores, præcipue qui catholico nomine gloriantur, libros de obscenis ex professo tractantes neque vendant, neque commodent, neque retineant: ceteros prohibitos venales non habeant, nisi a Sacra Indicis Congregatione veniam per Ordinarium impetraverint, nec cuiquam vendant nisi prudenter existimare possint, ab emptore legitime peti.

CAPUT V.

DE PŒNIS IN DECRETORUM GENERALIUM TRANSGRESSORES STATUTIS.

47. Omnes et singuli scienter legentes, sine auctoritate Sedis Apostolicæ, libros apostatarum et hæreticorum hæresim propugnantes, nec non libros cujusvis auctoris per Apostolicas Litteras nominatim prohibitos, eosdemque libros retinentes, imprimentes et quomodolibet defendentes, excommunicationem ipso facto incurrunt, Romano Pontifici speciali modo reservatam.

48. Qui sine Ordinarii approbatione Sacrarum Scripturarum libros, vel earundem adnotationes vel commentarios imprimunt, aut imprimi faciunt, incidunt ipso facto in excommunicationem nemini reservatam.

49. Qui vero cetera transgressi fuerint, quæ his Decretis Generalibus præcipiuntur, pro diversa reatus gravitate serio ab Episcopo moneantur; et, si opportunum videbitur, canonicis etiam pœnis coerceantur.

Præsentes vero litteras et quæcumque in ipsis habentur nullo unquam tempore de subreptionis aut obreptionis sive intentionis Nostræ vitio, aliove quovis defectu notari vel impugnari posse; sed semper validas et in suo robore fore et esse, atque ab omnibus cujusvis gradus et præeminentiæ inviolabiliter in judicio et extra observari debere, decernimus; irritum quoque et inane si secus super his a quoquam, quavis auctoritate vel prætextu, scienter vel ignoranter contigerit attentari declarantes, contrariis non obstantibus quibuscumque.

Volumus autem ut harum litterarum exemplis, etiam impressis, manu

tamen Notarii subscriptis et per constitutum in ecclesiastica dignitate virum sigillo munitis, eadem habeatur fides quæ Nostræ voluntatis significationi his præsentibus ostensis haberetur.

Nulli ergo hominum liceat hanc paginam Nostræ constitutionis, ordinationis, limitationis, derogationis, voluntatis infringere, vel ei ausu temerario contraire. Si quis autem hoc attentare præsumpserit, indignationem omnipotentis Dei et beatorum Petri et Pauli apostolorum ejus se noverit incursurum.

Datum Romæ apud Sanctum Petrum anno Incarnationis Dominicæ millesimo octingentesimo nonagesimo septimo, VIII Kal. Februarias, Pontificatus Nostri decimo nono.

A. Card. Macchi.
A. Panici, *Subdatarius.*

Visa.

De Curia I. De Aquila e Vicecomitibus.

Reg. in Secret. Brevium.
I. Cugnonius.

Loco ✠ Plumbi.

BENEDICTI PAPÆ XIV

Constitutio qua methodus præscribitur in examine et proscriptione librorum servanda.

BENEDICTUS EPISCOPUS SERVUS SERVORUM DIE AD PERPETUAM REI MEMORIAM.

SOLLICITA AC PROVIDA Romanorum Pontificum prædecessorum nostrorum vigilantia in eam semper curam incubuit, ut christifideles ab eorum librorum lectione averteret, ex quibus incauti ac simplices detrimenti quidpiam capere possent, imbuique opinionibus ac doctrinis, quæ vel morum integritati, vel catholicæ religionis dogmatibus adversantur. Nam, ut vetustissimum mittamus sancti Gelasii I. decretum, quæque jam pridem a Gregorio IX. aliisque Pontificibus hac de re statuta fuerunt; ignorare neminem arbitramur, quæ fuerint a prædecessoribus nostris Pio IV., sancto Pio V., et Clemente VIII. diligentissime præstita, ut saluberrimum opus a sacrosanctæ Tridentinæ synodi patribus susceptum, mature discussum, ac pene ad exitum perductum, de vetitæ lectionis librorum Indice conficiendo, atque vulgando, non absolverent solum, atque perficerent, sed sapientissimis etiam decretis ac regulis communirent. Quod quidem negotium Apostolica Sedes continenter urget, ac promovet; ad id deputatis duabus sanctæ romanæ Ecclesiæ Cardinalium Congregationibus, quibus onus inquirendi in pravos noxiosque libros impositum est, cognoscendique, quibus emendatio, et quibus proscriptio debeatur. Id muneris Congregationi quidem

romanæ universalis Inquisitionis a Paulo IV. commissum perhibent, idque adhuc ab ea exercere pergit, ubi de libris ad certa rerum genera pertinentibus judicandum occurrit. Certum est autem, sanctum Pium V. primum fuisse Congregationis Indicis institutorem, quam subsequentes deinde Pontifices Gregorius XIII., Sixtus V., et Clemens VIII. confirmarunt variisque privilegiis et facultatibus auxerunt: ejusque proprium ac fere unicum officium est in examen libros vocare de quorum proscriptione, emendatione, vel permissione capienda est deliberatio.

§ 1. Qua maturitate, consilio ac prudentia in Congregatione universalis Inquisitionis de proscribendis, vel dimittendis libris deliberetur, cum neminem latere putamus, tum nos ipsi plane, perspectum ac diuturna experientia compertum habemus; nam in minoribus constituti, de libris nonnullis in ea censuram tulimus, et consultoris ejusdem Congregationis munere diu perfuncti sumus; postremo inter sanctæ romanæ Ecclesiæ Cardinales cooptati, Inquisitoris generalis locum in ea obtinuimus; ac demum ad Apostolicam Sedem, meritis licet imparibus, evecti, non modo censorum animadversiones in libros nonnullos aliquando legere ac ponderare, sed etiam in Congregationibus, quæ singulis feriis quintis coram nobis habentur, Cardinalium sententias, atque suffragia, antequam de iisdem libris quid decernatur, audire, et excipere consuevimus. Haud minoris diligentiæ testimonium ferre possumus, adeoque debemus, pro altera Congregatione Indicis, cui generaliter incumbit, ut supra diximus, de quorumvis librorum proscriptione decernere. Dum enim in minoribus versaremur, cum primi, tum secundi censoris, seu relatoris officium in ea Congregatione non semel obivimus; ex quo autem supremum Pontificatum gerimus, nullius libri proscriptionem ratam habuimus, nisi audito Congregationis secretario, qui libri materiam, revisorum censuras, Cardinalium judicia et suffragia accurate nobis exponeret.

§ 2. Sed quoniam compertum est nobis, atque exploratum multas librorum proscriptiones, præsertim quorum auctores catholici sunt, publicis aliquando injustisque querelis in reprehensionem adduci, tamquam si temere, ac perfunctorie in tribunalibus nostris ea res ageretur; operæ pretium duximus, hac nostra perpetuo valitura Constitutione, certas firmasque regulas proponere, juxta quas deinceps librorum examen judiciumque peragatur; tametsi plane affirmari possit, idipsum jampridem, vel eadem prorsus ratione, vel alia æquipollenti, constanter actum fuisse.

§ 3. Porro romanæ universalis Inquisitionis Congregatio ex pluribus constat sanctæ romanæ Ecclesiæ Cardinalibus a summo Pontifice delectis, quorum alii sacræ theologiæ, alii canonici juris doctrina, alii ecclesiasticarum rerum peritia, munerumque romanæ curiæ exercitatione, prudentiæ demum, ac prohibitatis laude, conspicui habentur. His adjungitur unus ex romanæ curiæ præsulibus, quem Assessorem vocant; unus etiam ex Ordine prædicatorum sacræ theologiæ magister, quem Commissarium appellant; certus præterea consultorum numerus, qui ex utroque clero sæculari ac regulari assumuntur; alii demum præstantes doctrina viri, qui a Congregatione jussi, de libris censuram instaurant, iisque qualificatorum nomen tributum est. De variis in

præfata Congregatione, iisque gravissimis rebus agitur, in primis autem de causis fidei, ac de personis violatæ religionis reis. At cum librum aliquem ad eam, tamquam proscriptione dignum, deferri contigerit; nisi ad Indicis Congregationem, ut fieri plerumque solet, judicandum remittat, sed pro rerum temporumque ratione, sibi de illo cognoscendum esse arbitretur; nos, inhærentes decreto lato ab eadem Congregatione feria quarta kalendis Julii anni millesimi septingentesimi quinquagesimi, atque a nobis confirmato feria quinta insequente, hac ratione et methodo judicium institui mandamus.

§ 4. Primo nimirum uni ex qualificatoribus, aut consultoribus a Congregatione designando, liber tradatur, quem is attento animo legat, ac diligenter expendat; tum censuram suam scripto consignet, locis indicatis, et paginis, in quibus notati errores continentur. Mox liber cum animadversionibus revisoris ad singulos consultores mittatur, qui in congregatione pro more habenda singulis feriis secundis in ædibus sancti Officii, de libro, et censura sententiam dicant; ipsa deinde censura, cum libro, et consultorum suffragiis, ad Cardinales transmittantur, ut hi in congregatione, quæ feria quarta haberi solet in fratrum prædicatorum cœnobio sanctæ Mariæ supra Minervam nuncupato, de tota re definitive pronuncient. Post ab Assessore sancti Officii acta omnia ad Pontificem referantur, cujus arbitrio judicium omne absolvetur.

§ 5. Cum autem sit veteri institutione receptum, ut auctoris catholici liber non unius tantum relatoris perspecta censura illico proscribatur; ad normam præfati decreti mensis Julii anni millesimi septingentesimi quinquagesimi, volumus eam consuetudinem omnino servari; ita ut si primus censor librum proscribendum esse judicet, quamvis consultores in eamdem sententiam conveniant, nihilominus alteri revisori ab eadem Congregatione electo liber, et censura tradantur, suppresso primi censoris nomine, quo alter judicium suum liberius exponat. Si autem secundus revisor primo assentiatur, tunc utriusque animadversiones ad Cardinales mittantur, ut iis expensis de libro decernant; at si secundus a primo dissentiat, ac librum dimittendum existimet, tertius eligatur censor, cui, suppresso priorum nomine, utraque censura communicetur. Hujus autem relatio, si a priore consultorum sententia non abludat, Cardinalibus immediate communicetur, ut ipsi, quod opportunum fuerit, decernant. Sin minus, iterum consultores, perspecta tertia censura suffragium ferant; idque una cum omnibus præfatis relationibus, Cardinalibus exhibeatur, qui re ita, mature perpensa, de controversia denique pronunciare debebunt. Quotiescumque autem Pontifex, vel ob rei, de qua in libro agitur, gravitatem, vel quia id auctoris merito, aliisque circumstantiis tribuendum censeat, libri judicium coram se ipso in congregatione feriæ quintæ habendum decreverit, quod sæpe a nobis factum fuit, et quoties ita expedire judicavimus, in posterum quoque fiet; tunc satis fuerit exhibere Pontifici et Cardinalibus libri censuras, et consultorum suffragia, omisso examine congregationis feriæ quartæ, ejusque relatione, quam per Assessorem Pontifici faciendam diximus: nam Cardinalium suffragiis coram ipso Pontifice ferendis atque hujus definitiva sententia, vel alio opportuno consilio in eadem Congregatione capiendo, res absolvetur.

§ 6. Altera quoque Indicis Congregatio plures complectitur Cardinales ipsi a Pontifice adscriptos, iisdemque dotibus præditos, quibus sancti Officii Cardinales pollere solent; quum etiam eorum aliquos in utraque Congregatione locum habere contingat. Ex iis unus ejusdem Congregationis Præfectus existit; Assistens vero perpetuus est Magister sacri palatii; Secretarius autem a prima Congregationis institutione usque in præsentem diem, ex Ordine fratrum prædicatorum a summo Pontifice pro tempore eligi consuevit. Sunt præterea ex utroque clero sæculari et regulari ejusdem Congregationis consultores; et relatores selecti; et quidem, ubi aliquis librorum relationes coram congregatione semel, bis, tertio laudabiliter peregerit, tum ipsa congregatio Pontificem rogare solet, ut ejus auctoritate in consultorum numerum referatur.

§ 7. Sub ipsa Pontificatus nostri primordia, ea nos subiit cogitatio, ut certam aliquam et immutabilem methodum pro examine judicioque librorum in hac Indicis Congregatione servandam statueremus. Qua de re non modo consilium exquisivimus dilecti filii nostri Angeli Mariæ sanctæ romanæ Ecclesiæ Cardinalis Quirini nuncupati, ejusdem sanctæ romanæ Ecclesiæ Bibliothecarii, et dictæ Congregationis Præfecti, qui pari prudentia et doctrina suum nobis sensum scripto declaravit, verum etiam antiquiores aliquot ejusdem Congregationis consultores coram dilecto filio Josepho Augustino Orsi, Ordinis prædicatorum, tunc ipsius Congregationis secretario, nunc autem palatii apostolici Magistro, convenire jussimus, suamque sententiam aperire, quæ pariter scripto concepta, nobis jam tunc exhibita fuit. Cumque hæc omnia diligenter apud nos asservata fuerint, nunc demum veterem deliberationem nostram resumentes, quemadmodum ea, quæ ad librorum examen atque judicium in primodicta Congregatione sancti Officii peragendum, pertinet, auctoritate nostra constabilivimus; ita etiam ea quæ ad Congregationem Indicis, et ejusdem generis negocia apud eam tractanda facere possunt, opportunis decretis constituere volentes, prælaudati Cardinalis Præfecti consiliis, dictorumque consultorum votis inhærendo, hæc deinceps servanda decernimus.

§ 8. Cum Congregatio Indicis ad librorum censuram unice, ut dictum est, instituta, non ita crebo convocari soleat, ut altera sancti Officii Congregatio, quæ ob causarum et negociorum multitudinem singulis hebdomadis ter haberi consuevit, illius propterea secretario peculiare munus et officium recipiendi librorum denunciationes, ut fieri jam ante consuevit, committimus et demandamus. Is autem a libri delatore percunctabitur diligenter, quas ob causas illum prohiberi postulet, tum librum ipsum haud perfunctorie pervolvet, ut de propositæ accusationis subsistentia cognoscat; duobus etiam in eam rem adhibitis consultoribus, ab ipso, prævia summi Pontificis, aut Cardinalis Præfecti, vel ejus qui Præfecti vices supplet, approbatione eligendis: quorum collato consilio, si liber censura, et nota dignus videatur, unus aliquis relator ad ferendum de eo judicium idoneus, illius nempe facultatis, de qua in libro agitur, peritus, eadem, quam nuper innuimus, ratione eligendus erit, qui scripto referat animadversiones suas adnotatis paginis quibus singula ab ipso reprehensa continentur. Sed antequam ejus censura ad Cardinalium Congregationem feratur, haberi volumus privatam con-

sultorum congregationem, quam olim *Parvam* dixerunt, nos autem *Præparatoriam* vocabimus, ut relatoris animadversionibus ad librum collatis, de earum pondere judicium fiat. Hujusmodi congregatio semel omnino singulis mensibus, aut etiam sæpius, si oportuerit, ab ipso Congregationis secretario convocanda erit, vel in suis cubiculis, vel opportuniore, ut ipsi videbitur, loco, intra prædicti cœnobii ædes, ubi is commoratur. Eique semper intererit magister sacri palatii pro tempore existens, una cum sex aliis e numero consultorum, singulis vicibus, pro qualitate argumenti, et materiæ, de qua disputandum erit, ut supra de primis duobus consultoribus, et de relatore constitutum est a secretario eligendis ; præter secretarium ipsum, cujus partes erunt in tabulas referre consultorum sententias, quas deinde ad congregationem Cardinalium mittet, cum relatoris censura. In generali demum congregatione omnia illa servari debebunt, quæ superius statuta sunt pro Congregatione sancti Officii circa librorum examen. Ac quemadmodum ad Assessorem sancti Officii pertinet de actis in Congregatione summum Pontificem certum reddere ; ita ac secretarium Congregationis Indicis spectabit, quoties hæc librum aliquem proscribendum, aut emendandum censuerit, ejusdem Pontificis assensum, prævia diligenti actorum omnium relatione, exquirere.

§ 9. Quoniam vero in Congregatione Indicis de sola librorum prohibitione agitur, nonnulla hoc loco adjungenda judicavimus, eidem Congregationi potissimum usui futura, quæ tamen ab altera etiam Congregatione sancti Officii, dum in hujus quoque generis causis se immiscet, ubi similes rerum circumstantiæ se offerant, æque observanda erunt. Quotiescumque agatur de libro auctoris catholici, qui sit integræ famæ, et clari nominis, vel ob alios editos libros, vel forte ob eum ipsum, qui in examen adducitur, et hunc quidem proscribi oporteat ; præ oculis habeatur usu jamdiu recepta consuetudo prohibendi librum adjecta clausula : *donec corrigatur*, seu *donec expurgetur*, si locum habere possit, nec grave quidpiam obstet, quo minus in casu de quo agitur, adhiberi valeat. Hac autem conditione proscriptioni adjecta, non statim edatur decretum, sed suspensa illius publicatione res antea cum auctore, vel quovis altero pro eo agente, et rogante communicetur, atque ei quid delendum, mutandum, corrigendumvi fuerit, indicetur. Quod si nemo auctoris nomine compareat, vel ipse, aut alter pro eo agens, injunctam correctionem libri detrectet, congruo definito tempore decretum edatur. Si vero idem auctor ejusque procurator Congregationis jussa fecerit, hoc est novam instituerit libri editionem cum opportunis castigationibus, ac mutationibus, tunc supprimatur proscriptionis decretum ; nisi forte prioris editionis exemplaria magno numero distracta fuerint ; tunc enim ita decretum publicandum erit, ut omnes intelligant ; primæ edit onis exemplaria dumtaxat interdicta fore, secundæ vero jam emendatæ permissa.

§ 10. Conquestos scimus aliquando nonnullos, quod librorum judicia et proscriptiones, inauditis auctoribus fiant, nullo ipsis loco ad defensionem concesso. Huic autem querelæ responsum fuisse novimus, nihil opus esse auctores in judicium vocare, ubi non quidem de eorum personis notandis, aut condemnandis agitur, sed de consulendo fidelium

indemnitati, atque avertendo ab ipsis periculo, quod ex nocua librorum lectione facile incurritur ; si qua vero ignominiæ labe auctoris nomen ex eo aspergi contingat, id non directe, sed oblique ex libri damnatione consequi. Qua sane ratione minime improbandas censemus hujusmodi librorum prohibitiones, inauditis auctoribus factas ; quum præsertim credendum sit, quidquid pro seipso, aut pro doctrinæ suæ defensione potuisset auctor afferre, id minime a censoribus atque judicibus ignoratum, neglectumve fuisse. Nihilo tamen minus, quod sæpe alias, summa æquitatis, et prudentiæ ratione, ab eadem Congregatione factum fuisse constat, hoc etiam in posterum ab ea servari magnopere optamus, ut quando res sit de auctore catholico, aliqua nominis et meritorum fama illustri, ejusque opus, demptis demendis, in publicum prodesse posse cognoscatur, vel auctorem ipsum suam causam tueri volentem audiat, vel unum ex consultoribus designet, qui *ex officio* operis patrocinium defensionemque suscipiat.

§ 11. Quemadmodum vero ubi de Congregatione sancti Officii agebamus, eidem nos semper interfuturos recepimus, quotiescumque de libro, cujus materia gravioris momenti sit, judicium agatur : quod erat nobis facillimum, quum eadem Congregatio qualibet feria quinta coram nobis habeatur ; sic et Indicis Congregationi præsertiam nostram impendere parati sumus, quoties rei gravitas id promereri videbitur. Neque enim id opus esse dicendum est, quum vel hæretici hominis liber denunciatur, in quo auctor errores catholico dogmati adversantes consulto tradit, aut tuetur ; vel opus aliquod in examen adducitur, quo rectæ morum regulæ labefactantur, ac vitiis, et corruptelis fomenta præbentur. In his enim casibus ne illas quidem, quas supra scripsimus, accuratiores cautelas adhibere necesse erit ; sed hæretico dogmate, vel pravo moris incitamento semel comperto, præscriptionis decretum illico sanciendum erit, juxta primam, secundam, et septimam Indicis Regulas sacrosancti Tridentini concilii jussu editas, atque vulgatas.

§ 12. Cum in prælaudata Congregatione sancti Officii severissimis legibus cautum sit, ne de rebus ejusdem Congregationis quisquam cum alio extra illam loquatur ; nos hanc eadem silentii legem a relatoribus, consultoribus, et Cardinalibus Congregationis Indicis religiose custodiendam præcipimus. Illius tamen secretario potestatem facimus, ut animadversiones in libros censuræ subjectos, eorum auctoribus, vel aliis illorum nomine agentibus, et postulantibus, sub eadem secreti lege communicare queat ; suppressis semper denunciatoris, censorisque nominibus.

§ 13. Examinandis, corrigendisque libris peropportuna sunt, quæ decem Regulis Indicis a patribus Tridentinæ synodi confectis, atque editis continentur. In instructione autem felicis recordationis Clementis Papæ VIII. eisdem Regulis adjecta, *Tit. de correctione librorum*, § v., Episcopis et Inquisitoribus cura committitur, ut ad librorum edendorum examen *spectatæ pietatis et doctrinæ viros adhibeant, de quorum fide, et integritate sibi pollicere queant, nihil eos gratiæ daturos, nihil odio, sed omni humano affectu posthabito, Dei dumtaxat gloriam spectaturos, et fidelis populi utilitatem.* His porro virtutibus, animique dotibus, si non majori, a pari certe de causa, præstare oportet hujus nostræ Con-

gregationis revisores, et consultores. Cumque eos omnes, qui nunc hujusmodi munera obtinent, tales esse non ignoremus : obtandum, sperandumque est, non absimiles deinceps futuros, qui ad id eligentur homines nimirum vitæ integros, probatæ doctrinæ, maturo judicio, incorrupto affectu, ab omni partium studio, personarumque acceptione alienos ; qui æquitatem, libertatemque judicandi, cum prudentia, et veritatis zelo conjungant. Cum autem eorum numerus nunc certus, et constitutus non sit ; ab ejusdem Congregationis Cardinalibus consilium expectabimus, atque sapiemus, num eum pro futuris temporibus definire oporteat, vel expediat : hoc tamen jam nunc decrnentes, quatenus eorum numerus definiatur, ut tam relatores, quam consultores ex utroque clero, seculari nempe, et regulari, assumantur, alii quidem theologi, alii utriusque juris periti, alii sacra, et profana eruditione præstantes, ut ex eorum cœtu, pro varietate librorum, qui ad Congregationem deferunt, idonei viri non desint ad ferendum de unoquoque judicium.

§ 14. Ipsos autem relatores, consultoresque, tam nunc existentes quam in posterum quandocumque futuros monemus, ac vehementer hortamur, ut in examine, judicioque librorum, sequentes regulas diligenter inspiciant, accurateque custodiant.

§ 15. I. Meminerint, non id sibi muneris onerisque impositum ut libri ad examinandum sibi traditi proscriptionem modis omnibus curent atque urgeant ; sed ut diligenti studio, ac sedato animo ipsum expendentes, fideles observationes suas, verasque rationes Congregationi suppeditent, ex quibus rectum judicium de illo ferre, ejusque proscriptionem, emendationem, aut dimissionem pro merito decernere valeat.

§ 16. II. Tametsi hactenus cautum sit, cavendumque deinceps non dubitemus, ut ad referendum, et consulendum in prædicta Congregatione, ii solum admittantur, qui scientiam rerum, quas libri delati respective continent, diuturno studio acquisitam possideant ; decet enim de artibus solos artifices judicare ; nihilominus si forte eveniat, ut alicui per errorem materia aliqua discutienda committatur ab illius peculiaribus studiis aliena, idque a censore, aut consultore electo ex ipsa libri lectione deprehendatur : noverit is, se neque apud Deum, neque apud homines culpa vacaturum, nisi quamprimum id Congregationi, aut secretario aperiat, seque ad ferendam de hujusmodi libro censuram minus aptum professus, alium magis idoneum ad id muneris subrogari curet : quo tantum abest, ut existimationis suæ dispendium apud Pontificem, et Cardinales passurus sit, ut magnam potius probitatis, et candoris opinionem, et laudem sibi sit conciliaturus.

§ 17. III. De variis opinionibus, atque sententiis in unoquoque libro contentis, animo a præjudiciis omnibus vacuo, judicandum sibi esse sciant. Itaque nationis, familiæ, scholæ, instituti affectum excutiant ; studia partium seponant ; Ecclesiæ sanctæ dogmata, et communem catholicorum doctrinam, quæ conciliorum generalium decretis, romanorum Pontificum Constitutionibus, et orthodoxorum patrum, atque doctorum consensu continetur, unice præ oculis habeant ; hoc de cætero cogitantes, non paucas esse opiniones, quæ uni scholæ, instituto, aut

nationi certo certiores videntur, et nihilominus, sine ullo fidei, aut religionis detrimento, ab aliis catholicis viris rejiciuntur, atque impugnantur oppositæque defenduntur, sciente ac permittente Apostolica Sede, quæ unamquamque opinionem hujusmodi in suo probabilitatis gradu relinquit.

§ 18. IV. Hoc quoque diligenter animadvertendum monemus, haud rectum judicium de vero auctoris sensu fieri posse, nisi omni ex parte illius liber legatur ; quæque diversis in locis posita, et collocata sunt, inter se comparentur ; universum præterea auctoris consilium, et institutum attente dispiciatur ; neque vero ex una, vel altera propositione a suo contextu divulsa, vel seorsim ab aliis, quæ in eodem libro continentur, considerata, et expensa, de eo pronunciandum esse ; sæpe enim accidit, ut quod ab auctore in aliquo operis loco perfunctorie, aut subobscure traditum est, ita alio in loco distincte, copiose, ac dilucide explicetur, ut offusæ priori sententiæ tenebræ, quibus involuta pravi sensus speciem exhibebat, penitus dispellantur, omnisque labis expers propositio dignoscatur.

§ 19. Quod si ambigua quædam exciderint auctori, qui alioquin catholicus sit, et integra religionis, doctrinæque fama, æquitas ipsa postulare videtur, ut ejus dicta benigne, quantum licuerit, explicata, in bonam partem accipiantur.

§ 20. Has porro, similesque regulas quæ apud optimos scriptores de his agentes facile occurrent, semper animo propositas habeant censores et consultores ; quo valeant, in hoc gravissimo judicii genere, conscientiæ suæ, auctorem famæ, Ecclesiæ bono et fidelium utilitati consulere. Duo autem reliqua sunt in eum finem plane opportuna, quæ hoc loco adjugenda omnino esse judicamus.

§ 21. Prodeunt aliquando libri, in quibus falsa, et reprobata dogmata, aut systemata, religioni vel moribus exitiosa, tamquam aliorum inventa, et cogitata, exponuntur, et referuntur, absque eo quod auctor, qui opus suum pravis hujusmodi mercibus onerare sategit, ea refutandi curam in se recipiat. Putant vero, qui talia agunt, nulli sese reprehensioni, aut censuræ obnoxios esse, propterea quod de alienis, ut ajunt, opinionibus nihil ipsi affirment, sed historice agant. At quidquid sit de eorum animo, et consilio, deque personali in eos animadversione, de qua viderint, qui in tribunalibus ad coercenda crimina institutis jus dicunt ; dubitari certe non potest, magnam ejusmodi libris in christianam rempublicam labem, ac perniciem inferri ; quum incautis lectoribus venena proponient, nullo exhibito, vel parato, quo præserventur, antidoto. Subtilissimum hoc humanæ malitiæ inventum, ac novum seductionis genus, quo simplicium mentes facile implicantur, quam diligentissime revisores advertant, ac censuræ subjiciant ; ut vel hujusmodi libri, si aliqua ex ipsis capi possit utilitas, emendentur, vel in vetitorum Indicem omnino referantur.

§ 22. In ea, quam superius laudavimus, prædecessoris nostri Clementis Papæ VIII. Instructione, *Tit. de correct. lib.*, § 2, sapientissime cautum legitur, ut *quæ famæ proximorum, et præsertim ecclesiasticorum, et principum, detrahunt, bonisque moribus et christianæ disciplinæ sunt contraria*,

expungantur. Et paulo post: *facetiæ etiam, aut dicteria, in perniciem, aut præjudicium famæ, existimationis aliorum jactata, repudientur.* Utinam vero in aspectum, lucemque hominum libri ejusmodi in hac temporum licentia et pravitate non efferentur, in quibus dissidentes auctores mutuis se jurgiis, conviciisque proscindunt; aliorum opiniones nondum ab Ecclesia damnatas censura perstringunt, adversarios, eorumque scholas, ac cœtus sugillant, et pro ridiculis ducunt, magno equidem bonorum scandalo, hæreticorum vero contemptu, qui digladiantibus inter se catholicis, seque mutuo lacerantibus, plane triumphant. Etsi vero fieri non posse intelligamus, ut disputationes omnes e mundo tollantur, præsertim tum librorum numerus continenter augeatur: *faciendi enim plures libros nullus est finis,* ut est apud Ecclesiasten, cap. 12; compertum præterea nobis sit magnam aliquando utilitatem ex iis capi posse; modum tamen in defendendis opinionibus, et christianam in scribendo moderationem servari merito volumus. *Non inutiliter* (inquit Augustinus in *Enchirid.*, cap. 59 prope finem) *exercentur ingenia, si adhibeatur disceptatio moderata, et absit error opinantium se scire quod nesciunt.* Qui veritatis studium, et purioris doctrinæ zelum, quo suarum scriptionum mordacitatem excusent, obtendere solent, ii primum intelligant, non minorem habendam veritatis, quam evangelicæ mansuetudinis, et christianæ charitatis rationem. Charitas autem de corde puro, patiens est, benigna est, non irritatur, non æmulatur, non agit perperam (utque addit idem Augustinus, lib. *Contra litteras Petiliani,* cap. 29, n. 31): *sine superbia de veritate præsumit, sine sœvitia pro veritate certat.* Hæc magnus ille non veritatis minus, quam charitatis doctor, et scripto et opere præmonstravit. Nam in suis adversus manichæos, pelagianos donatistas, aliosque tam sibi, quam Ecclesiæ adversantes, assiduis conflictationibus, id semper diligentissime cavit, ne quempiam eorum injuriis, aut conviciis læderet, atque exasperaret. Qui secus scribendo, vel disputando fecerit, is profecto nec veritatem sibi præcipue cordi esse, nec charitatem sectari se ostendit.

§ 23. Ii quoque non satis idoneam, justamque excusationem afferre videntur, qui ob singulare, quod profitentur, erga veteres doctores studium, eam sibi scribendi rationem licere arbitrantur; nam si carpere novos audeant, forte ab lædendis veteribus sibi minime temperassent, si in eorum tempora incidissent; quod præclare animadversum est ab auctore Operis imperfecti in Mattæum, hom. 42.—*Cum audieris,* inquit, *aliquem beatificantem antiquos doctores, proba, qualis sit circa suos doctores. Si enim illos, cum quibus vivit, sustinet, et honorat, sine dubio illos, si cum illis vixisset, honorasset: si autem suos contemnit, si cum illis vixisset, et illos contempsisset.* Quamobrem firmum, ratumque sit omnibus, qui adversus aliorum sententias scribunt ac disputant, id quod graviter, ac sapienter a ven. servo Dei prædecessore nostro Innocentio Papa XI. præscriptum est in decreto edito die secunda Martii anni millesmi sexcentesimi septuagesimi noni.—*Tandem,* inquit, *ut ab injuriosis contentionibus doctores, seu scholastici, aut alii quicumque in posterum abstineant, ut paci, et charitati consulatur, idem Sanctissimus in virtute sanctæ obedientiæ eis præcipit, ut tam in libris imprimendis, ac manusciptis, quam in thesibus, ac prædicationibus, cavcant ab omni censura, et nota necnon a quibuscumque conviciis contra eas propositiones, quæ adhuc inter catholicos controverluntur, donec a sancta Sede recognitæ sint, et*

super eis judicium proferatur.—Cohibeatur itaque ea scriptorum licentia qui, ut ajebat Augustinus, lib. 12, *Conf.*, cap. 25, num. 34 : *Sententiam suam amantes, non quia vera est, sed quia sua est*, aliorum opiniones non modo improbant, ed illiberaliter etiam notant, atque traducunt. Non feratur omnino, privatas sententias veluti certa ac definita Ecclesiæ dogmata, a quopiam in libris obtrudi, opposita vero erroris insimulari quo turbæ in Ecclesia excitantur, dissidia inter doctores aut seruntur, aut foventur, et christianæ charitatis vincula persæpe abrumpuntur.

§ 24. Angelicus scholarum princeps, Ecclesiæque doctor S. Thomas Aquinas, dum tot conscripsit numquam satis laudata volumina, varias necessario offendit philosophorum, theologorumque opiniones, quas veritate impellente refellere debuit. Ceteras vero tanti doctoris laudes id mirabiliter cumulat, quod adversariorum neminem parvipendere vellicare, aut traducere visus sit, sed omnes officiose, ac per humaniter demereri ; nam si quid durius, ambiguum, obscurumve eorum dictis subesset, id leniter, benigneque interpretando, emoliebat, atque explicabat. Si autem religionis, ac fidei causa postulabat, ut eorum sententiam exploderet. ac refutaret, tanta id praestabat modestia, ut non minorum ab iis dissentiendo, quam catholicam veritatem asserendo, laudem mereretur. Qui tam eximio uti solent, ac gloriari magistro (quos magno numero esse, pro singulari nostro erga ipsum cultu, studioque, gaudemus) ii sibi ad æmulandum poponant tanti doctoris in scribendo moderationem, honestissimamque cum adversariis agendi, disputandique rationem. Ad hanc ceteri quoque sese componere studeant, qui ab ejus schola, doctrinaque recedunt. Sanctorum enim virtutes omnibus in exemplum ab Ecclesia propositæ sunt. Cumque Angelicus doctor sanctorum albo adscriptus sit, quamquam diversa ab eo sentire liceat, ei tamen contrariam in agendo, ac disputando rationem inire omnino non licet. Nimium interest publicæ tranquillitatis, proximorum ædificationis, et chairtatis, ut e catholicorum scriptis absit livor, acerbitas, atque scurrilitas, a christiana institutione, ac disciplina, et ab omni honestate prorsus aliena. Quamobrem in huiusmodi scriptorum licentiam graviter pro munere suo censuram intendant revisores librorum, eamque Congregationis Cardinalibus cognoscendam subjiciant ut eam pro zelo suo, et potestate coerceant.

§ 25. Quæ hactenus a nobis proposita, ac constituta sunt, prædecessorum nostrorum decretis plane consona, Congregationum quoque, nostrarum legibus, et consuetudinibus comprobata, in librorum examine ac judicio instituendo, Apostolica auctoritate deinceps servari decernimus : mandantes universis, et singulis, qui in præfatis Congregationibus locum obtinent, seu illis quomodolibet operam suam præstant, ut adversus præmissa sic a nobis statuta nihil edicere, innovare, decernere, aut intentare præsumant, absque nostra, vel successorum nostrorum pro tempore existentium Romanorum Pontificum expressa facultate.

§ 26. Non obstantibus contrariis quibusvis, etiam Apostolicis Constitutionibus, et ordinationibus, necnon earumdem Congregationum, etiam Apostolica auctoritate, seu quavis firmitate alia roboratis decretis, usibus, stylis, et consuetudinibus, etiam immemorabilibus, cæterisque in contrarium facientibus quibuscumque.

§ 27. Nulli ergo omnino hominum liceat paginam hanc nostrorum decretorum, mandatorum, statutorum, voluntatum ac derogationum infringere, vel ei ausu temerario contraire. Si quis autem hoc attentare Præsumpserit, indignationem omnipotentis Dei, ac beatorum Petri et Pauli Apostolorum ejus se noverit incursurum.

Datum Romæ apud sanctam Mariam Majorem, anno Incarnationis Dominicæ millesimo septingentesimo quinquagesimo tertio, septimo Idus Julii, Pontificatus Nostri anno tertiodecimo.

D. Card. Passioneus.
J. Datarius.

Visa.
De Curia J. C. Boschi.

L. Eugenius.

Loco ✠ Plumbi. *Registrata in Secretaria Brevium.*

PART II.

DEVELOPMENT OF THE INDEX.

HISTORICAL INTRODUCTION.

THE whole of the Church's organization against evil literature is generally called the Index. In this organization there are three principal parts—the Index Legislation, the Congregation of the Index, and the Index of Proscribed Books. Although occasionally reference will be made to the Index of Proscribed Books and to the Congregation of the Index, yet the present work will deal exclusively with the Legislation on the Index.

The Legislation on the Index is made up of three Constitutions—a Bull of Leo XIII., which is termed *Officiorum ac Munerum*; a Bull of Benedict XIV., which is termed *Sollicita ac Provida*; and 49 Rules. Of those three Constitutions I purpose to give a Commentary.

The Bull *Officiorum ac Munerum* may be considered to be an exposition of three leading thoughts: in it is shown the necessity of taking certain books out of the hands of the faithful; it is stated how the Church, at all times, has been most vigilant in the proscription of bad books; and then are assigned the motives underlying the whole of the present legislation on the Index. Accordingly, before beginning the interpretation of the Rules of the Index, which constitute the principal part of the Index Legislation, I purpose to treat briefly of those three points.

§ 1.

The Apostles frequently warned their disciples against the baneful influence of intercourse with the enemies of Christianity, either in word or writing. In the Acts of the

Apostles it is recorded that the people of Ephesus, at the instigation of St. Paul, brought all their bad books into a public place and burned them. St. Paul warns his disciple Timothy again and again against the effects of vain and novel teachings.[1] In his First Epistle to him, he admonishes him to guard the faith that has been entrusted to him; and prescribes as a means of doing so, the avoidance of profane novelties and oppositions which are circulated abroad under the false name of science; and in his Second Epistle he advises him to have nothing to do with the vain babblings of the day; "for," says he, "they tend very much to ungodliness, and they spread like a canker." [2]

The Fathers of the Church not only strove against bad men, but also against bad books. In the middle of the third century we hear St. Cyprian warning his flock against association with those who had been driven from the Church. "Do not believe them," he says. "Do not take darkness for light, poison for cure, death for life. Fly from all association with such men; avoid their discourse as you would a canker, and fly from it as you would from a pest." St. Gregory asserts that heretics mix truth with falsehood to attract an audience, and that then they administer what is bad, in order that they may corrupt with a hidden pest.

St. Isidore asserts that to read books subversive of religion is as bad as to offer incense to the devil: St. Jerome remarks that as no one would enter a shattered bark in order to avoid shipwreck, so no one ought to study a book full of error in order to learn truth. Origen, who was well acquainted with the insinuating wiles of the popular enemies of Christianity, warns his readers: "Let not the brilliancy of the work deceive you, nor the beauty of the language allure." And louder still is the admonition of Tertullian, "No one can be

[1] 1 Tim. vi. 20. [2] 2 Tim. ii. 16, 17.

improved by what injures him; no one enlightened by what blinds him."

If such were the opinions entertained by the early Fathers of the Church of the works of heretics, how can we describe the horror with which they fled from their company? Two striking instances are recorded for us by the earliest of our historians. St. Irenæus narrates that St. John the Evangelist, contrary to his custom, went on an extraordinary occasion to one of the public baths to bathe. On arriving there he heard that Cerinthus was within; he rushed out in affright urging his companions to flee for their lives, lest the wrath of God might tumble the building on their heads. St. Jerome[1] relates that the illustrious convert of St. John, St. Polycarp of Symrna, acted in a similar way towards the heretic Marcion. St. Polycarp, while on a visit to Rome, met that bad man in one of the public streets of the city. As the saint was passing him by, without seeming to notice him, he cried after him, "Why Polycarp, don't you know me?" "Know you!" replied Polycarp; "I know you as the first-born of the devil." Then, of course, the detestation in which St. Bernard held the writings of Berengarius and Abelard, and the dread with which the learned Bellarmine read the works of Luther are known to everybody. It might be tedious to give further instances, but we may safely assume that it has been in accordance with Apostolic tradition to avoid all intercourse and association both with wicked men and their works.

But had the Apostles remained silent, and the admonitions of the Fathers never come down to us, still the evils brought about in every age by bad books would have sufficed to make clear to all the necessity of exercising a careful vigilance over every new publication. Where was there ever a

[1] *Brev. Romanum.*

great revolution effected either in State or Church, for which men's minds had not previously been prepared and educated by speech or writing? Perhaps there have been few greater revolutions than that caused by Arius. His manner is illustrative of all crafty contrivers. By deceit, he first enlisted the influence of some simple-minded and credulous prelates. Under the protection of their name, he next formulated and brought to scientific form his errors; he then popularized his teachings by small tracts and pamphlets; and finally, taught the uneducated to lisp his errors by teaching them simple songs and hymns. The life of Eutyches is a warning and a lesson. He had been a man full of zeal, and had been a defender of the Incarnation against Nestorius; but as St. Anastasius relates from the perusal of one book of a certain Manichean, he was changed from a champion of the Church to a bitter enemy. The books of Eutyches himself bred evils; for after that he had been condemned, and his tongue silenced by imprisonment, still his works, notwithstanding all the efforts of the Emperor, and of the prelates of the Church, continued to win adherents to his errors, and succeeded in perverting a large portion of the East. In the Middle Ages Henry Bullincerus was a man remarkable for his learning and his piety. Indeed at one time, it was believed that he had intended to join the Carthusians, and devote his life to penance. Still, the reading of one book of Melancthon caused him to fall, and break away from the Church.

The rapid spread of the errors of Wyclif and Huss was one of the occasions that led to the reform of the old Index—effected by the Fathers of the Council of Trent. After many years of toil and vexation in preaching his errors in England, Wyclif confessed that he had made little or no progress—that he had gained but few adherents, that he had earned nothing for his zeal but reproach and insult. But his

writings soon achieved what his discourses had failed to effect. John Huss happened to procure the writings of Wyclif from a Bohemian who had been a student at Oxford, and soon the fatal errors spread and perverted nearly the whole of Bohemia.

Indeed all civilized and cultured nations recognizing this baneful influence have given us the example of proscribing bad books. It is stated, I believe, by an old ecclesiastical writer that certain priests of the old law, for some reason or other, were on the point of destroying the Book of Baruch lest it should scandalize the Jews. Eusebius, the father of ecclesiastical history, relates that Herod ordered all the Hebrew genealogies to be destroyed, lest they should incite the Jews to sedition and revolt. Cicero narrates that the Athenians proscribed by edict the works of Protagoras, and ordered them to be burned in the market-place. Baronius states that the Romans demanded the destruction of the work of Cicero—*De natura deorum*—wherein he speaks, with very little respect, of the Roman deities. Livy states that one of the duties of the Pontifex Maximus was to supervise all new publications, and burn everyone deemed dangerous. And to omit many further instances, we know that Julius Cæsar condemned the book of Ovid, *De arte amandi*, and drove the author into exile. And at the present time, to say nothing of books or pamphlets, how many newspapers are suppressed every other day, or issues of them confiscated, for denouncing even the government party that happens to be in office? In fact it has always been the practice of governments, in ancient and modern times, to condemn and proscribe all kinds of literature that might injure the individual or society at large, or shake the stability of civil rule. No one, then, can accuse the Church of injustice in restricting our reading without accusing these governments; and to accuse govern-

ments of injustice in such a matter would be to accuse them of being careful of their own preservation.

Now, coming to the Church's legislation: Whereas the civil powers, in their policy towards literature, are always actuated by the temporal welfare of their subjects, the Church, in her Index Legislation, always considers the spiritual welfare of mankind; and actuated by this motive, she will proscribe not only works that are opposed to faith, but also works that would in any way be grossly immoral; and the injury caused by such works is a sufficient justification for such proscription.

St. Alphonsus affirms that he believes that the *Decamerone* of Boccaccio has done more harm than all the works of Luther. Luther himself asserts—if we may accept as good the opinion of such a man—that the works of Juvenal, Martial, and Catullus should be removed from every public school, because they breathe such an air of obscenity that they cannot be read by the young without the most serious injury. Striking are the words of St. Augustine against those who say they read the immoral books of Terence on account of their beautiful language. "By means of immoral matter, nice language is not acquired, but by means of nice language immorality is learned. I do not accuse the language, but the intoxicating wine of error that we drink in from it." The injury caused to the young even by works of fiction not treating *ex professo* of indecent things, is oftentimes so serious that it would justify the Church in placing them on her Index. By long habit grown accustomed to clear and alluring pictures, their minds refuse, or are quite unable to rise to considerations above the grosser qualities of matter. They become incapable of making any abstraction from material things. They despise and hate books of serious style and real value; the result is that they remain rude in mind, and become vicious in habit.

Now this injury caused in every age, both in morals and in faith, the traditional admonition of the Fathers, and the inspired policy of the Apostles, have been some of the motives that have actuated the Church to frame her legislation on the Index.

§ 2.

We now come to the second point—the efforts made at different times by the Church to cope against the evil influence of wicked literature.

It would be difficult for us to clearly define the starting point in the history of the Index. Going back from one age to another, it is found that the practice of proscribing bad literature has always existed; but it is difficult to determine what Pope or Council began. Perhaps it may be said, that as the office and duty of teaching must needs have annexed to it the power and the right to censure and correct, the censorship of literature must have been exercised by the Church at all times in one way or another.

The stepping-stones, so to speak, through this long history are given by Leo XIII. in his Bull *Officiorum ac Munerum*. Some of the other authentic sources are the Bull of Benedict XIV., *Sollicita ac Provida* (which has been incorporated in the present Index Legislation), and some Constitutions of Clement VIII., Pius V., Sixtus V., Pius IV., Leo X., and Alexander VI.

Of all the acts of legislation on the Index, three stand out in especial prominence—the Leonine Constitution (comprising the existing Rules on the Index, and the *Officiorum ac Munerum*), the *Sollicita ac Provida* of Benedict XIV., and the Constitution of the Council of Trent, which is now annulled. For the sake of convenience I will divide this short sketch of the development of the Index legislation into three periods: from the earliest times to the Council

of Trent; from the Council of Trent to the Pontificate of Benedict XIV.; and from Benedict XIV. to the present constitution.

1°. From the testimonies of Origen and Tertullian we know that the Christians at that early date were forbidden to read certain books; for they speak with such authority, that they must have had at their backs the common practice of the Church. St. Augustine, speaking of a certain heretic, says: "He had been lost; he was sought, he was found, and now he is converted. He is going to burn the books that would have consumed him, in order that the fire that burns them may save him."[1] The practice, therefore, must have been rife in St. Augustine's time. The acts of the Councils, however, supply us with all necessary information. In 325 the Council of Nice not only condemned the errors of Arius, but proscribed all his writings; and Socrates, an early and prudent historian, tells us that Constantine inflicted death on all those in whose possession any work of the heretic should be discovered. In the history of Sulpitius Severus we read of an interesting and instructive discussion that took place in the year 385, between Theophilus of Alexandria and his suffragan bishops on the one side, and the friends of Origen on the other. Theophilus wished to have the works of Origen proscribed. The friends of that great man wished to save, at least, some of his works from condemnation. They alleged that the works had never come forth from the hands of Origen as they were then read; that they had been tampered with and corrupted by the Nestorians, the Montanists, and the Arians, in order that they might teach their errors with more security, protected under the shadow of his venerated name. But they urged with no avail.

In 431 the Fathers of the Council of Ephesus condemned

[1] St. Alph., *Theologia Moralis*, Liber I. Appendix III.

the works of Nestorius. As they foresaw that many would despise the condemnation of the Church, and continue to read the works of the heretic, they addressed a letter to Theodosius the Great, requesting him to punish all who should refuse to obey the decree. Theodosius complied with their request. For the first act of disobedience he confiscated the entire property of the culprit, and for repeated offences he proceeded even to capital punishment.

In 496 Pope Gelasius issued at a synod held in Rome what may be regarded, perhaps, as the first list or Index of proscribed books. The list comprises some sixty books, none of which are scarcely ever heard mentioned now. They seem to have been all on theological subjects; a number of them are stated to be apocryphal gospels by one or other of the Apostles; and a large number of them are attributed to heretics whose names are familiar. At the end of this Index it is well to note, in view of subsequent legislation, that a long list of writers, then doubtlessly well known, is given whose writings, no matter what should be their recommendations, are summarily declared condemned.

It is scarcely necessary to recall the peremptory action of the fifth General Council, in 553, whose condemnation of the so-called "Three Chapters" filled the East and West with controversy. In the ninth century Pope Valentine condemned the works of Scotus Erigena in the following terms: "We remove his writings far from the pious hearing of the faithful; and, acting with the authority of the Holy Ghost, we command all to beware of such writings." In 860 we find this condemnation renewed at the Council of Trullo; in 1050 Leo IX. condemned the book of the same author, *De Corpore Christi;* and in 1215 Honorious III. confirms the acts of his predecessors, and proscribes, in explicit terms, the work of Scotus, *De Naturis*.

In 869 Pope Adrian condemned the works of Photius in a letter to the Emperor Basil.

The pride of Berengarius, his condemnation by the Church in 1059, his retractation and final repentance shall always be associated with the controversy on the Real Presence.

In the beginning of the twelfth century Peter Abelard came under the censure of the Church. He had taught the inequality of the Three Persons in God; that Christ did not become man to free us from sin; and that we have not inherited the sin of Adam. In 1121 his works were condemned, and he himself obliged to burn them.

In the thirteenth century the works of Masilius Patavinus incurred a like censure; he had taught monstrous errors about the Church: that Christ had instituted no visible head of the Church; that the Emperor might elect the Supreme Pontiff, remove him, or even punish him if he willed; that the Emperor might rule the Church while the Holy See was vacant; that all priests, even popes and bishops, had equal authority; that the Emperor might increase the power of any one of them if he wished; and as he might freely increase it, so he might freely withdraw it altogether if so he pleased. In 1327 John XXII. condemned the man himself with all who should defend his tenets, and proscribed all his books. In 1418 Wyclif, Huss, and Jerome of Prague, were condemned, with all their writings, by the Council of Constance; and Martin V. confirmed that condemnation in his Bull *Inter cunctas*.

The Council of Florence, in 1445, just on the eve of the so-called Reformation, brought the divided parts of the Church together, and sealed them in unity. Such a perfect reunion at such a crisis was almost providential. The fifty years that followed were a sort of repose given to the Church, from which she was to arise with fresh vigour and resources to meet the conflict before her. The times

were specially prolific of bad literature, and accordingly almost every year saw changes in the Index. Alexander VII. published a few rules which were to regulate the publication of new books. He ordained in his Bull *Inter multiplices*, published in 1501, that all manuscripts should be submitted to the bishops of the places where printing presses had been introduced; and that the bishops should allow no book to be published which contained anything contrary to the dogmas of the Church, irreverent or scandalous. This rule was in great part a local law, as Germany at the time was the great "impressorium" of the world. Leo X. sanctioned this simple rule of his predecessor in his Bull *Inter solicitudines*, and furthermore specified the Cardinal Vicar, and the "Magister S. Palatii," as "censores deputati" for the city of Rome, and elsewhere, the local bishop. In 1520, when Leo X. had exhausted all means of reconciliation with Luther, he published his Bull *Exsurge Domine*, in which he condemned that heretic with all his writings, and forbade the faithful to read anything that he should subsequently write or publish. This was a decided step: not only were his published works proscribed, but the very fœtus of his mind, before he gave it birth, incurred the Church's censure.

Paul IV. made a decided advance. He issued a very comprehensive Index of proscribed books. He was, however, far from being satisfied with his list, and in the course of five years he changed and modified it no less than three times. Even then he was dissatisfied; and, accordingly, he deemed it best to lay the whole matter before the Fathers of the Council of Trent, and requested them to provide some means to stem the tide of evil. In the eighteenth Session, held in 1562, the Fathers deputed a certain number of their body to discuss the

matter in private conferences, and afterwards to report in full Council the result of their discussions.

Many changes in the times demanded a radical and fundamental change in the Index. The invention of the art of printing by John of Guttenberg, and the consequent deluge of heretical works that swept from Germany, Switzerland, England, and the Netherlands, had rendered individual and explicit condemnation of each bad publication quite impracticable. Some means should be devised of condemning them—not individually, but in *classes*. The faithful, moreover, were not only to be restrained from heretical works already published, but warned against future publications. The deputed Fathers, therefore, did two things: they directed their thoughts to the past and to the future; the bad books that had already seen the the light—they condemned; to the dangers they foresaw might arise—they applied an antidote. They revised the list of Paul IV., and they annexed a code of ten Rules which were to serve as standards by which all future publications were to be judged, and if deemed noxious, condemned. They worked assiduously, and in 1563 they had their work complete. In the twenty-fifth Session, held in December of that year, the new Rules were read and solemnly approved. The new list with the annexed Rules were re-examined by Paul IV., and published under his name in 1564.

As those Rules of the Index have been the groundwork of the present Leonine legislation, and as I shall frequently hereafter have to make reference to them, I consider it well to here briefly state their scope and object.

The whole legislation on the Index was comprised in ten Rules. The *first* Rule stated that all books not explicitly mentioned in the list of proscribed books sometime previously issued by Paul IV., and formerly condemned either

by the Popes or by Œcumenical Councils, were to be considered as still under the same ban of proscription. The *second* Rule dealt with the works of heretics. All works of heresiarchs, no matter what kind they were, were proscribed; works of heretics, if treating of religious matters, were proscribed; however, if not treating of religious matters, and if duly examined and approved, they were permitted. The *third* Rule prescribed that versions of ecclesiastical writers, published by condemned authors, were permitted provided that they contained no false doctrine. The *fourth* Rule forbade the reading of the Sacred Scriptures in the vernacular without permission. The *fifth* Rule declared that lexicons, concordances, indexes, and other such works published by heretics were permitted provided that they were duly approved. The *sixth* Rule declared that works on subjects disputed between Catholics and heretics of that time should be treated in the same way as editions of the Sacred Scriptures in the vernacular; they were not to be read without permission of one's parish priest or one's confessor. The *seventh* Rule dealt with immoral literature, and prescribed that all books treating *ex professo* of obscene subjects were to be regarded as forbidden, even though they were not contained in the Index or list of proscribed books. The *eighth* Rule prescribed that works dealing principally with good and useful subjects, even though they should contain something heretical or superstitious or otherwise erroneous, were permitted if expurgated by some Catholic editor, and the same was to hold for introductions, summaries, or annotations, prefixed by condemned authors, to books already approved. The *ninth* Rule forbade all books treating of the various kinds of superstition. The *tenth* Rule prescribed that no book was thenceforth to be published without the permission of the legitimate authority; for the city of Rome this permission

ST. ALBERT'S COLLEGE LIBRARY

was to be given either by the Cardinal Vicar, the *Magister Sacri Palatii*, or someone deputed by either one or other of those; in other places it was to be given by the bishop of the place where the printing was done, or by one deputed by him; this permission was always to be given *gratis*, and a copy of the work was to be left by the author in the hands of the examiner. This Rule, moreover, prescribed how bishops were from time to time to make visitation of public libraries and publishing firms, and declared the sinfulness of reading forbidden or proscribed books.[1]

2°. The Constitution of the Council of Trent gave a new life to the Index. It lasted from the pontificate of Paul IV. to that of Benedict XIV. a period of nearly two hundred years. There are two reasons why we should mark the pontificate of Benedict XIV., as an epoch in the history of the Index: first, because he made a very considerable change in the internal organization of the Congregation of the Index; second, because that change has been permanent, and is part of the present Constitution. The changes made in the Index during this period affected merely the list of proscribed books of Paul IV., and the internal organization of the Congregation of the Index.

The first change effected in this period was the Institution of the third and last department of the Index—the Congregation of the Index. There is some controversy about its origin. Cardinal de Luca, Vanespen, and Spondanus assert that it was instituted by Sixtus V. Benedict XIV., however, attributes its origin to Pius V. It is certain that Pius V. increased the Commission appointed by the Council of Trent for the examination of dangerous literature, and gave it the name of the Congregation of the Index. Gregory XIII., Sixtus IV.,

[1] Vide *Decreta Con. Trid.*, p. 298.

and Clement VIII. developed it, and enlarged its scope. Clement VIII. increased the list of proscribed books published by Pius IV., and annexed a few remarks to Rules 4 and 9 of the Council of Trent. Alexander VII. made a slight change in the order of inscribing books on the list of Paul IV. Benedict XIV. laid the Congregation of the Index on a firm and lasting foundation by his Bull *Sollicita ac Provida*, published in the year 1753. Since this bull has been allowed to stand by Leo XIII., it will be necessary to explain its substance, in order that the entire present legislation on the Index may be fully understood. Moreover, as I shall not have occasion to speak hereafter of the Congregation of the Index, I avail myself of this opportunity of explaining its internal organization and working, and showing what extreme care is taken lest any book may be unjustly condemned.

It is not necessary to weave the eulogies of Benedict XIV., or show how well his training fitted him to make this great reform. Those who are competent to judge, assert that he was one of the greatest, if not the very greatest canonist, that Italy has ever produced. Although his pontificate extended only over a period of about eighteen years, yet by his foresight and by his tact he seems to have spanned many centuries. The many laws he added to some of the most important departments of the Church's legislation, and which still subsist with all their youthful force, are sufficient testimony of this. As the ancient Romans built not for themselves alone, but for succeeding generations, so Benedict XIV. seems not to have legislated for the requirements of his own day alone, but also for those of future ages. From his youth he had been reared up to ecclesiastical business. He had been first trained in the University of Bologna. There his statue stands on the main entrance stairs with that of St. Thomas Aquinas, beside the hall

where Mezzofanti taught—illustrious members of this once famous school. When he came to Rome his abilities soon asserted themselves. He himself tells us in the opening paragraphs of his Bull *Sollicita ac Provida*, that while still a private priest in Rome he had been made consultor for two different Congregations—the Congregation of the Holy Office, and the Congregation of the Index, and that in that capacity he had examined several books. Subsequently, when he had been co-opted into the College of Cardinals he was raised to the position of Inquisitor-General; and when elected Pope, he brought to the papal throne a great love of business, and an intense interest in the working of the Congregations. He had, therefore, all the knowledge and experience required to effect a great change in the Index. How successful was his effort, the present Bull of Leo XIII. testifies; for whilst all other legislation has been levelled down and cleared away by the *Officiorum ac Munerum*, the *Sollicita ac Provida* has been allowed to stand—a solitary monument.

Benedict XIV. divided the officials of the Congregation of the Index into various grades or orders. In the first rank come the cardinals. They are all men eminent in some department of sacred learning; some of them illustrious for their knowledge of theology, others for their knowledge of canon and civil law; some of them remarkable for their skill in the management of ecclesiastical affairs, others conspicuous for their prudence and probity. Next come the prefect, the master of the sacred palace, and secretary, who is always a Dominican and elected *pro tempore* by the Pontiff himself. Next come the "consultores," selected from regular and secular clergy; and last come the "relatores." If a "relator" "gives two or three satisfactory proofs of his ability in his remarks of books submitted to his criticism, a petition is presented to the Pontiff to have him enrolled amongst the 'consultores.'"

The members of the Congregation meet in two different assemblies. The "consultores" meet by themselves, and theirs is called the "Congregatio Praeparatoria." This preparatory meeting is held at least once a month, and oftener if there be need. The "Magister Sacri Palatii" always presides; the meeting is generally held at the Dominican Convent, "Sopra Minerva." Their decision is submitted to the higher Congregation of Cardinals. The decision of the cardinals is submitted to the Pontiff by the secretary for approval.

The following is the manner of procedure: The person who wishes to have the book in question examined or proscribed (Delator) presents it to the secretary, together with his reasons for doing so. The secretary then takes counsel with two "consultores" as to whether the matter deserves consideration or not. If affirmative, the book is given to a "relator" for revision and criticism. When his investigation is ended, he reads his report before the Preparatory Council of "consultores." If they deem the book worthy of censure, the matter is sent on to the Congregation of Cardinals; and if they too be of opinion that the work deserves condemnation, their decision is submitted to the Pontiff for approbation.

Special care, however, is taken lest any injustice be done a Catholic author. The decision of one "relator" does not suffice to have the matter brought even before the Preparatory Council. If the first "relator" be of opinion that it deserves proscription, it is given to another, and not till two "relators" coincide in their decisions is the matter brought before the Preparatory Council. Still more, even when a final adverse decision is given, an absolute prohibition is not pronounced, but one having annexed to it the clause, "donec corrigatur," or "donec expurgetur." Meanwhile, the author is requested to make the desired change. If

the author fails to comply, the decree of proscription is published.

The strictest secrecy is enjoined on all the officials of the Congregation in reference to the business transacted therein. The secretary, however, has power to make known to the author or his deputy the decisions arrived at—always, however, concealing the names of the "relators" or "consultores" concerned, in order that he take measures to comply with the wishes of the Congregation.

The following four Rules Benedict XIV. laid down for the guidance of the "relatores" and "consultores":—

1. They are to bear in mind that their duty is not to strive by every means, fair and foul, to discover errors and flaws in the book submitted to them, but to give a faithful account of its contents to the Congregation after a careful and unprejudiced examination of it.

2. Care must be taken that the book be given to a "relator" skilled in the science of which the book treats. If, however, anyone should discover that from the peculiar nature of the book he is unable to pass a just criticism on it, let him bear in mind that he is not free from sin if he does not make this known at once to the Congregation. Such conduct, instead of lowering him in the estimation of the Congregation, will tend greatly to augment it.

3. In passing judgment on certain opinions advanced in books, the greatest possible care must be taken. Different countries, different religious congregations, different schools of thought must needs have various prejudices. Now, all party strife must be laid aside. The standards to be kept before the minds are:—the dogmas of the Church, the common teaching of Catholics, the decrees of the general Councils, the constitutions of the Roman Pontiffs, and the tradition of the Fathers. Any opinion that does not come in conflict with any of those must be allowed to pass.

4. They must also bear in mind that a right and proper judgment cannot be passed on the true sense of an author unless the whole book be read. The different parts of the book must be carefully collated, the opinions and design of the author carefully examined. Nor is judgment to be passed on any proposition quite independent of the context in which it is found, for it frequently happens that the different parts of a book mutually lend light to one another, and that an author expresses himself more clearly in one place than in another.

Benedict XIV. then directs his attention to a certain complaint made against the mode of procedure in the Congregation, and gives orders with regard to a twofold class

of dangerous books. Sometimes authors have complained that their books have been condemned without their having had an opportunity of appearing before the Congregation and defending them. Benedict XIV. asserts and shows that such complaints are quite unreasonable. For why should authors appear before the Council? Is it to defend their persons and their reputation against the imputation of crime? It cannot be so, for no charge is imputed to their persons, and if their character or reputation be tarnished by the condemnation of their book, it occurs indirectly and unintentionally. Is it to defend before the Congregation the opinions advanced in the book? Such a proceeding could not be tolerated for a moment. A private individual to appear before the Congregation to instruct its members on what is right and wrong! No; the book itself is the individual that must stand before the tribunal; the opinions as therein expressed are the charges to be brought forward; as it will be read by the public without a commentator, so it must stand or fall by its own merits without a defender.

He grants, however, one slight indulgence. It had previously been customary for a length of time to take special precautions lest the work of any Catholic author should be unjustly condemned, and the more so, if the work was likely to confer some signal benefit on society, or if the author enjoyed a high and untarnished reputation. In such a case the author had been permitted to appear in person before the Congregation and defend his book; or, if he so preferred, he might have chosen a champion from among the "consultores" to plead his cause. This laudable custom Benedict XIV. approves and confirms.

There are two classes of books to which he calls the special attention of the "consultores." The first are those books which, under the guise of historical narration, state doctrines or systems of thought destructive to faith and

morals, without assuming the obligation of refuting them. This is an insidious style of composition. The authors assume that they are not blameworthy and exposed to censure because they do not advance such opinions or theories as their own, but merely narrate them historically as the tenets of others. Whatever be the sentiments we entertain of authors who write in such a style, the books we must condemn, because they poison the minds of the unwary without applying an antidote.

The second class are the books of those who with excessive zeal thrust themselves forward as champions of Catholic truth. Such authors frequently defend opinions, not because they are true, but because they are their own. The opinions of others that have not yet incurred the censure of the Church, they condemn in unmeasured terms. On schools and men who hold opinions different from their own, they heap reproach and insult—to the great scandal of Catholics and to the great delight of heretics, who view with pleasure Catholics thus rent asunder, fight and enfeeble one another. Vain is the plea of those authors who say they employ this mode of writing out of veneration for the early writers of the Church. There is an old commentator who has left an unfinished work on the Gospel of St. Matthew. In the fragment he says:—

> If you hear anyone praising the writers of bygone days, see what be his sentiments towards the writers of his own day. If he honours and defends those with whom he lives, undoubtedly he would have honoured those of former days if they had been his contemporaries; but if he despises his contemporaries, you may rest assured that he would also have despised the men of other days if he had lived with them.

To all defenders of Catholic truth, the Pontiff proposes the example of the prince of the Schools—the Angelic Doctor. In writing his wonderful books, which are far beyond all praise, St. Thomas necessarily came in contact

with doctrines of philosophers and theologians, which were contrary to the express teaching of the Church. Yet, to his honour, be it said, that he never despised an adversary, never vilified or traduced an opponent, but treated all with whom he came in conflict humanely and with courtesy. If he happened to find anything rigorous, ambiguous, or obscure in their writings, he interpreted it with lenity and benignity, he softened and explained it away. If, however, Catholic truth demanded the refutation of any opinion or system, he went just as far to meet it as Catholic truth permitted him; and he expressed his own opinion with such modesty, that he deserves our praise and admiration as much for the manner in which he introduces his opinion as in the way in which he afterwards proves it. Let all, then, who boast to follow the teaching of such an illustrious doctor strive also to imitate his manner. The manners of the saints are proposed to us by the Church for our example. Though St. Thomas is a saint, we are not bound to accept everything that he teaches. But though we may hold opinions contrary to his we must not adopt a manner contrary to his. Let, therefore, the "consultores" direct their especial attention to this class of writings. Let them zealously endeavour as far as ever their power extends to restrain and coërce them; for it is of the highest interest to the public peace, to the edification of the faithful, and to charity towards our neighbour, that all hatred, all bitterness, and all scurrility be far removed from everything in connexion with the Catholic faith.

3°. The third period of the history of the Index is short, and uneventful. We may really consider it as all along a gradual slope leading to the present Leonine Constitution. During this period no material change was made in the old list of books of Paul IV.; and Benedict XIV. had set the Congregation of the Index on such a firm basis, that it required

no further consideration. But it was not so with the Rules of the Council of Trent: with the advance of years they sadly required to be changed. The progress of the age far outstripped their limits. Science had made gigantic strides since the days of the Council of Trent, and literature, which is always the voice of the age, had extended with it far beyond the boundaries conceived by those who drew up the Rules. They had become antiquated, and entirely unsuited to the class of literature that now poured from the press day after day. Indeed, from the very beginning they had not been able to be put in force in Protestant countries. With the lapse of time some of them had become quite useless, others excessively severe, and some even quite impossible to be observed. Pius IX. perceived this, and endeavoured to render them more efficient. In 1848 he published an Encyclical in which he in great part mitigated the tenth Rule. That Rule had prescribed that the bishop or his vicar should visit every printing-press within their diocese, and see that no proscribable book should be published; that all booksellers should keep a list of the books they had in stock, with the signature of the bishop or his vicar written after the name of each book; and that the penalty for violation of this regulation would be forfeiture of the books themselves, and the payment of a fine imposed according to the discretion of the bishop. This Rule had now become quite useless and impracticable. It might have been put in force while the Church and State were on friendly terms, and—espoused, as they were at the time it had been framed—under the Emperors Charles V. and Philip II. But now that the Church and State were divorced, the Church had not the power to coërce obedience. Besides, so wide had the range of literature become that bishops could not have attended to this regulation even had they no other duty attached to their office. One

book-stall alone would have tried their patience. Pius IX., therefore, mitigated the Rule. He limited the scrutiny of bishops to works on Sacred Scripture, Sacred Theology, Ecclesiastical History, Canon Law, Natural Theology, Ethics, and all other works treating of Religion and Morals.

This innovation, however, did not remedy the general defect; accordingly, shortly before the Vatican Council, the whole matter was laid before a commission of learned and experienced men. All were unanimous that the Rules required to be changed. But what was to be the nature of this change, or how was it to be effected? Two opinions prevailed amongst the members of the commission. Some, actuated by veneration for the Fathers of the Council of Trent, proposed that the then existing Rules should be left intact, and that certain additions and annotations should be made. Others, however, contested that this was full of difficulties; and besides, would prove quite useless. In the first place, they urged the Rules had become quite out of date, and could never again be made effective; secondly, the proposed additions could never be successfully made, for, notwithstanding all their efforts and their care, the annexed parts would never square with the existing Rules; thirdly, various antilogies and contradictions would necessarily arise notwithstanding every precaution; and lastly, it was no derogation, they said, to the Fathers of the Council of Trent to abrogate their Rules, for as they had been made to meet the requirements of the times, they were never meant to stand in an age entirely out of touch with them. They, therefore, proposed to draft a completely new set of Rules. This opinion prevailed, and it is cited by Leo XIII. in his Bull *Officiorum ac Munerum*.

In 1895 Leo XIII. took up the question of reform. He entrusted the matter to the Congregation of the Index. The

Congregation, in their turn, elected four of their number to draft two schemes of a new code of Rules. Those chosen met frequently, and discussed amongst themselves the relative merits of the two schemes. At length they presented the two schemes to the Congregation. Thereupon four other "consultores" were chosen by the Congregation to criticize the schemes, and submit their criticism to the authors. The authors slightly changed the Rules according to the recommendation of the critics. The Rules were then publicly discussed, examined, and reformed by the entire body of the Congregation, and finally submitted to the Pontiff for approval and promulgation. The promulgation of these Rules took place in the February of 1897. On the promulgation of the legislation on the Index the Sacred Congregation of the Index began the revision of the old Index of proscribed books, and acting under the guidance of the Rules, and in accordance with the lenient policy of the legislator, published the new Index of proscribed books on September 17, 1900. Except the authentic interpretation that we have received from time to time of a few of the more obscure clauses in the Rules, the promulgation of this Index may be regarded as the last event in the history of the Index.[1]

In narrating the history of the Index, my chief intent has been to narrate in order the principal changes in its development. I have not brought into any special prominence the various departments of the Index, nor insisted very much on the characteristics of the three periods into which I have divided its history. Yet, the Index will be found to have departments; each department has a special duty to perform; and there exists a very substantial relation between the character of the period and the form the Index assumed

[1] Cf. Pennacchi, p. 25.

during that period, as the legislators always carefully studied the drift of the times and the character of the literature then published before framing their acts of legislation. Standing at the three epochs which I have selected in this brief sketch of the history of the Index—the Tridentine Constitution, the *Sollicita ac Provida* of Benedict XIV., and the *Officiorum ac Munerum* of Leo XIII.—we may now easily review the chief events of the three periods as they pass in rapid review before us.

In the first period we shall perceive no special institution whose duty it would be to supervise and examine each new publication; we shall perceive no set of Rules to act as standards in the judgment of books; we shall seek in vain for a detailed list of the books condemned by the Church. The condemnation and proscription of the books of Origen, of Arius, Nestorius and Eutyches; of the books of Photius, Scotus Erigena, Berengarius, and Abelard; of Wyclif, Huss, and Jerome of Prague, were to be found only in the archives or great libraries, together with the acts of the great Councils, and the constitutions of the Roman Pontiffs. Here the learned became aware of the Church's condemnation, and through them that knowledge filtered down to the very lowest grades in the Church. Towards the waning of this period we shall first perceive, however, a gradual change occur—the first germs of Rules formulated and published by the two Pontiffs Alexander VI. and Leo X. Hitherto the mind of the Church had been directed to the past—to the bad books that had already seen the light; now it began to look towards the future. Not only the works of the heretic were condemned, but the very fœtus of his mind was doomed before it was given birth to. And just as the period ends, a second department of the Index begins to take form—a regular list of the books condemned by the Church, drawn up and ultimately published by Paul IV.

In the second period we shall perceive two departments of the Index work with perfect organization and outfit. The Council of Trent had formulated a definite code of Rules to be used as standards in the judgment of books, and had revised and reformed the old list of Paul IV. Ere long the third and last department of the Index comes into view; it is modelled, shaped, and brought to perfection by Benedict XIV.

Thus we see three departments of the Index in full working order: the list of proscribed books, the Rules of the Index, and the Congregation of the Index—all three mentioned by Leo XIII. in the *Officiorum ac Munerum*. But the Index had always been intended by the Church to be the standard, the rule and *norma* by which the faithful were to know what was good from bad in the published literature of the day. Science had now spread beyond premeditated bounds, and the literature of the day which was its faithful expression, had expanded with it. The Index legislation did not cover all; the state of knowledge, and the state of the civil powers had changed since its Rules had been first formulated; its Rules had become antiquated, and had fallen out of joint with the times.

With the Leonine Constitution we shall perceive a perfect renovation. There, we shall see the character of the times studied; the science and literature of the day examined; every mode of writing provided for; every danger averted; we shall perceive a new blood infused into every department. Everything that was old is cast aside; anything that was fresh is still preserved; everything comes forth clear and new, full of youthful life and vigour. It will be found, in fact, to be a code of legislation defining the boundaries of orthodoxy, according to the ecclesiastical, the divine, and the natural laws, of all kinds of publications.

§ 3.

We now come to a general survey of this present Index legislation. As already stated, in the Index organization there are at present three parts: the Index of Proscribed Books, the Congregation of the Index, and the Rules of the Index. It has been also already stated that the present Index legislation is made up of three Constitutions: the *Sollicita ac Provida* of Benedict XIV., the *Officiorum ac Munerum* of Leo XIII., and the 49 Rules of the Index. The *Sollicita ac Provida* is not intended for the universal public: it is intended mainly for the guidance of the Congregation of the Index. The *Officiorum ac Munerum* abrogates all previous legislation on the Index (except the *Sollicita ac Provida*), and declares the new Rules to be binding on all Catholics throughout the world.

The Rules of the Index and the Index of Proscribed Books are intended for the same end or purpose—to make known what would be dangerous reading; but they effect that in two different ways. The Rules state the classes or kinds of dangerous literature, whereas the Index expressly mentions the dangerous works and their authors. Thus, whereas the Rules will declare forbidden a vast number of books, many of which in any case would be forbidden by the law of nature, the Index will contain only a comparatively small number of works. Hence it would be a great mistake to suppose that only those works are forbidden which have been expressly condemned and have been inscribed in the Index; for though not inscribed in the Index, they may be included in some or other of the classes comprised in the Rules.

Any of the bad works already condemned and proscribed by one or other of those general Rules, the Sacred Congregation of the Index may at any time place on its Index of Proscribed Books; but it is the policy of the Congregation

not to do so, unless the book is expressly denounced to it, and unless there are very special reasons for resorting to such extreme measures.

The present Rules were designed to meet all the requirements of the present times and to cover the whole range of modern literature. The old legislation has been practically annulled, and the new legislation has been so mitigated that no one who is well disposed (as is remarked in the *Officiorum ac Munerum*) will find them difficult of observance.

The present Rules are expressly stated to be binding throughout the Church: *Quibus Catholici homines toto orbe religiose pareant.*

Although it is thus expressly stated that the present legislation is binding throughout the Church, yet for some reason or other it was supposed that English-speaking countries were exempt from the new Index legislation; hence there was proposed to the S. Congregation of the Index the following query:—

Utrum dicta Constitutio (*Officiorum ac Munerum*) *vim obligatoriam habeat, etiam pro regionibus britannici idiomatis, quas frui tacita dispensatione quidam arbitrantur?*

Resp.: Affirmative.

Datum Romae ex Secretaria ejusdem S. Cong. Indices die 23 *Maii* 1898.

A. Card. Steinhuber, *Praef.*
Fr. M. A. Cicognani, O.P., *Sec.*

However, for this country the question has been withdrawn from the field of controversy, if ever there was room for such a controversy, by the whole Index legislation being incorporated in the Appendix to the Decrees of the late Maynooth Synod.

Having thus cursorily glanced at the general aspect of the present Index legislation, and the place occupied in it by the

49 Rules—at their scope and purpose, their lenient character in comparison with previous regulations, and their universal binding force—we should now see if we have any guide or canon in interpreting them. And first of all what do we find in the new Rules to determine their meaning? We find two things: first, the wording of the Rules; second, the end the legislator had in view. His end was to lay the Rules of the Index within the reach of everybody. Accordingly should we find in any place an opposition between the present Rules and the old Rules, the present Rules must be judged to be more liberal and more lenient. If there is any Rule of the present code that admits of a twofold meaning, the more lenient is always to be accepted as being more in accordance with the wish of the legislator.

Will the old Rules in any way assist us in interpreting the present ones? The old Rules, though abrogated, will assist us to understand the present ones in two ways. Though the Rules have been abolished, and their binding-force destroyed, yet the words that occur in them have not been deprived of their native original meaning. If, therefore, we know the meaning of any term in the old Rules, we can conjecture its general signification in the present Rules—always, however, mindful that it will bear a wider and more liberal interpretation in the new Rules. Not only the wording of the old Rules, but sometimes their substance also, will assist us in determining the nature and extension of the present Rules; for although they have been annulled, many of them have been in part incorporated in the present ones.

Accordingly the lenient tendency of the legislator—the native and literal meaning of the terms that occur in the Rules, and the substance of the old Rules that have been incorporated in the present ones—we may have recourse

to, as to three canons, in interpreting the present legislation.

With this general outline of the present legislation in view, I now proceed to an individual interpretation of the Rules.

PART III.

INTERPRETATION OF THE DECREES.

SECTION I.

PROHIBITION OF BOOKS.

CHAPTER I.

BOOKS OF APOSTATES, HERETICS, SCHISMATICS, ETC.

REGULA I.

Libri omnes, quos ante annum MDC. aut Summi Pontifices, aut Concilia oecumenica damnarunt, et qui in novo Indice non recensentur, eodem modo damnati habeantur, sicut olim damnati fuerunt: iis exceptis, qui per haec Decreta Generalia permittuntur.

As we have already stated in the Introduction, the present code of Rules on the Index is divided under two titles: on the prohibition of books; on the censure of books. The first thing, therefore, that attracts our attention in commenting on the Rules of the Index, is the wording of Title I., "De Prohibitione Librorum."

Prohibition literally means a negative command. The command of which there is mention here, has been made by the Church. The object of this command are bad and dangerous books; the faithful are those to whom the command is given. We may, therefore, define Prohibition in the present context as an act of ecclesiastical jurisdiction, by which certain books of bad or dangerous reading are removed from the hands of the faithful.

We have already seen that the history of the Index may be conveniently divided into three periods: from the earliest

times up to the Council of Trent; from the Council of Trent to the Pontificate of Benedict XIV.; from Benedict XIV. to the present Leonine Constitution. We have also seen the long list of books which had been condemned by the Church, either in solemn Councils or in private letters of the Popes, even prior to the Council of Trent. Finally, we have seen the gradual development of the Index in all its departments after the Council of Trent, and the vast area of literature that its rules covered. Now, as it would be unseemly for the musician to commence a piece of music without a prelude, or for an orator to rush into the body of his discourse without an exordium, so also it would not be convenient for a legislator to publish a new code of laws without taking cognizance of previous legislation on the same subject. Accordingly, we see that the first Rule of the Tridentine legislation, looking back, made a general prescription regarding all books condemned before the year 1515: the first Rule of the new legislation makes a similar prescription regarding all books condemned before the year 1600.

The first Rule of the present Constitution establishes, then, a connexion with all previous legislation on the Index. It divides the history of the Index into two periods: from the earliest times to the year 1600; from 1600 to the present time. It divides all proscribed books into two classes—those that had been proscribed by Œcumenical Councils or supreme Pontiffs, and those that had not been proscribed. With regard to the members of this division, it prescribes that *all books* that had been condemned before the year 1600, either by supreme Pontiffs or by Œcumenical Councils, even though not found inscribed on the new Index, shall be considered henceforth condemned in the exact same way as they had formerly been; those, however, are excepted which are permitted by the present General Decrees. A book, it may be remarked, may be proscribed in two ways—

either expressly, by a special decree (in which case it would be entered on the Index of Proscribed Books), or under a class, as by any of the Rules of the present Constitution. A book proscribed, by special decree, may again, be condemned either absolutely or provisionally—*donec corrigatur*. Now, this Rule states, that books proscribed before the year 1600, are to be considered as yet proscribed, exactly as they were originally proscribed, unless, they are freed from it, by one of the Rules of the present legislation.

There is a striking resemblance between this first Rule of the Leonine legislation and the first Rule of the Tridentine legislation. The first Tridentine Rule referred to all books condemned either by supreme Pontiffs or by Œcumenical Councils before the year 1515: the first Leonine Rule refers to all books condemned by Popes or Œcumenical Councils before the year 1600. The old Rule stated that books condemned by the said authorities were to be considered forbidden, even though they were not contained in the Index issued by Paul IV.; the new Rule says that books similarly condemned prior to 1600 are to be considered forbidden even though not contained in the new Index.

There is no book that was condemned before 1600 in the new Index; but even though not contained in the Index they are still forbidden unless permitted by any of the subsequent Rules. To illustrate this, let us compare the first page of the Index compiled under Leo XIII., according to the old Tridentine Rules, with the new Index compiled according to the new Rules. The last edition of the former was issued in 1899; the latter was issued in 1900. The first book on the old Index is seen to be a book of *Abailardus Petrus*. It was condemned prior to the year 1600; therefore it is not included in the new Index. Still it is even now forbidden (unless it is permitted by one of the Rules that we shall hereafter consider) in the same way

as it was formerly forbidden. Let us take the second book; it is one by a certain *Abano Petrus*, treating of *Geomancy;* it was included in the Appendix to the Tridentine Index; it was condemned prior to 1600; and accordingly is not to be found in the new Index. The third book on the old Index is *Reflexions impartiales sur les evangiles* by a certain *Abauzit*. It was condemned in 1774, and we find that this is the first book in the new Index. By this first Rule, therefore, a very large number of works (about 2,500) with one stroke are struck off the Index.

REGULA II.

Libri apostatarum, haereticorum, schismaticorum, et quorumcumque scriptorum haeresim vel schisma propugnantes, aut ipsa religionis fundamenta utcumque evertentes omnino prohibentur.

The present Rule is so like a clause from the *Apostolicae Sedis* that it seems to have been taken from it. This will be more clearly seen from a collation of them:—

Reg. Indicis.	CAP. II. *Apostolicae Sedis.*
Libri apostatarum, haereticorum schismaticorum et quorumcumque scriptorum,	Omnes et singulos scienter legentes sine auctoritate sedis apostolicae libros eorundem apostatarum, haereticorum,
Haeresim vel schisma propugnantes aut ipsa religionis fundamenta utcumque evertentes, etc.	Haeresim propugnantes necnon libros cujusvis auctoris per apostolicas literas nominantim prohibitos.

It will be remarked that there are few words different. The words "schismaticorum" and "utcumque evertentes" are found in the Rule of the Index, whereas they are absent from the *Apostolicae Sedis*. On the other hand, the phrase "per apostolicas literas nominatim prohibitos" is found in the *Apostolicae Sedis*, whereas it is absent from the Rule of the Index. The two, however, cover exactly the same ground. This Rule, then, prescribes that the books of all the Apostates, of all heretics and schismatics, and the books of all the writers that either propose or defend heresy and schism,

or undermine in any way the Catholic religion are strictly forbidden.

There are some terms in the present Rule that require explanation; we must be acquainted with their meaning and extension in order to determine exactly the force and extent of the Rule.

Apostatarum.—Apostasy implies a certain retrogression. A person may be said to apostatize when he recedes from his belief (*αφίστημι*). A Christian, accordingly, might be said to apostatize were he to have himself circumcised, or were he to go to pray to the tomb of Mohammed. We may also with propriety of language call the disciples who receded from Christ after the discourse on the Eucharist apostates. But as he who has penetrated through the corridors, halls, and departments of an extensive mansion will have many stages in his retrograde movement, so will he who has been thoroughly initiated into any form of belief have several stages in his retrogression from it. If we make the Catholic faith the subject of our discourse, we will find that there are many for instance who have fully acquiesced in all its doctrines, but who take no part in its pious practices; we will find others who believe in all its doctrines, and take part in many of its pious practices; and, finally, we will find some few who believe in all its doctrines, take part in its pious practices, and perform some works of supererogation, such as making vows of chastity, becoming members of the priesthood, or joining some religious community. If a person were to recede from any of those stages he would, to a certain degree, be an apostate. If a priest were to recede from his religious order, he might be called an apostate to the order, but the term would not be used in its entire force and signification; if he were to refuse obedience to the Church, he would merit the term more truly still; but were he to renounce every truth that

he had held, he would then be an apostate in the full force and vigour of the term. This is the meaning that we must attribute to the term apostate in the present Rule, because throughout the present Constitution we must always interpret terms strictly, and steer the most lenient course. An apostate, then, is a person who has totally receded from the Christian faith which he had received in baptism.

Haereticorum.—Heresy implies some choice, for αἱρεῖσθαι in Greek will be *eligere* in Latin. Let us examine its causes: it resides in the intellect as in its *subject;* for it is the part of the intellect to exercise a choice; and we see that we could not well call the drunkard or the angry man a heretic, because he proclaims against or denies any dogma of the Catholic faith while in one of his passionate fits. It has the subordinate truths of Christianity for its *object.* We perceive at once how inaptly a Chinese or an atheist would be called a heretic who may have never heard of Christ, or who may not believe in the immortality of the soul; moreover, we do not exercise a choice about what is fundamental; no one chooses to be happy, but only the way to be happy. This choice must assume a certain *form* before it can with propriety be called heresy; heresy bespeaks a stubborn choice. St. Augustine says:[1] "Although persons may propound perverse and false doctrines, still if they seek the truth, and are prepared to embrace it, they cannot be called heretics." Heretics, therefore, are those who knowingly and stubbornly deny any article of Catholic faith.

Schismaticorum.—Schism (σχιζω) implies a fissure, a rent, a cut in twain. Schism is, therefore, opposed to *union*, in the first place; and, secondly, to *unity*. As stones adhere to one another by mortar to raise the walls, and as the walls

[1] Ep. 43.

keep together to support the roof, so all the members of the Church are bound to one another by charity, and to the Pope by obedience. Those, therefore, who take away a member of the faithful from the body of the Church may just as well be termed schismatics as those who refuse obedience to the Pope.[1] Hence those who would endeavour to sever the English Church from all communion with the Irish Church, might as well be called schismatics as the Greeks who refuse obedience to the Supreme Pontiff.

Propugnare haeresim.—The Latin word "propugnare" seems to imply both to propose and to defend. On the meaning of this word, Reat has in his commentary on the *Apostolicae Sedis*, "*Propugnare est, si quid opinor, haeresis patrocinium suscipere data opera, et quasi pro viribus; quocirca excommunicatio eum non tenet qui legit librum Apostatae si haeresim non propugnat, etsi eam contineat immo defendat, sed, obiter, paucis, et quasi aliud agens.*" Hence, if a work merely contains heretical or schismatical doctrine without the proofs and arguments for it, it cannot be said to fall under the present Rule.

Fundamenta religionis utcumque evertentes.—Amongst the commentators who have heretofore written on the Rules of the Index, a difference of opinion exists about the exact meaning of this phrase. The Belgian commentator, P. Vermeersh, S.J., understands by "fundamenta religionis" the natural truths on which our religion is founded. He says[2]:—

> Ipsa religionis fundamenta intelligimus, *unice veritates ordinis naturalis*, quae adulto infideli ipsi fidei amplectendae praeambulae sunt; non autem simul praecipua dogmata ipsius fidei.

P. Pennacchi and *Il Monitore Ecclesiastico* would, however, give the expression a much wider extension. They

[1] Cf. St. Thomas, *Summa*, II.-II. 11, 12, 39.
[2] No. 13.

would understand by "fundamenta religionis" *the motives of our belief in religion.* P. Pennacchi writes[1]:—

Libri qui religionis fondamenta evertunt, sunt libri ab incredulis presertim conscripti; iis scilicet qui vel existentiam, vel Christi divinitatem aut ipsa motiva credibilitatis fidei negant: divinas scripturas aut non divinitus inspiratas, aut suppositiias, aut mendaces traducunt.

Il Monitore writes to the same effect[2]:—

Combattere i fondamenti della religione è combattere i motivi di credibilità, quali sono fra gli altri,—le profezie ed i miracoli; e poi la sacra scrittura, la chiesa cattolica, il Romano Pontefice, e sopratutto la divinità de Gesu Christo.

This would seem to be the best opinion.

In explanation, therefore, I should, say, that the legislator here makes use of a metaphor. He compares religion to a building. St. Paul[3] makes use of the same metaphor when he compares the Church and the sanctification of the faithful to a sacred edifice. For building this edifice God had appointed Apostles to act as His ambassadors, prophets to make known His hidden truths, evangelists to announce the good news, pastors to rule as bishops, doctors to prove the faith. He uses the same metaphor when speaking of the doctrine of the Incarnation. He says: "*Other foundation no man can lay but that which is laid, which is Christ Jesus.*"[4] St. Augustine[5] makes use of the same metaphor in one of his homilies where he says that humility is the foundation of sanctity: the greater the height of sanctity we wish to reach, the deeper the foundation of humility must be set.

Now, what are the foundations of this sacred edifice of religion? Religion is a connexion between the soul and God;[6] the starting-point is the truths concerning God which the soul recognizes. Some of those truths are of the

[1] Page 55. [2] Page 24. [3] Eph. v. [4] 1 Cor. iii. 11.
[5] Cf. *Brev. Rom.* [6] St. Thomas, II.-II. 81, 1.

natural order, according to the words of St. Paul in his Epistle to the Romans; and some are difficult to understand, as St. Peter says when commending the Epistles of St. Paul. By reason alone we might arrive at a knowledge of many of the necessary truths of our religion, as we see from the *Metaphysics* of Aristotle and from Pars. I. of the *Summa* of St. Thomas; but there are some necessary truths of our religion at which we could never arrive without the aid of revelation, as St. Thomas proves [1] when treating of the Trinity.

Now, a knowledge of the mystery of the Trinity, which we could not possibly discover by the pure light of reason,[2] is as necessary to our religion as the existence of God, proven by Aristotle. Hence, if our religion were founded merely on natural truths, it would tumble down on one side, and we should have no theology but natural theology; while if it were founded entirely on revealed truths, we would have no theology but mystic theology. Hence, anyone who limits "fundamenta religionis" to mere natural truths seems to take but a one-sided view of the sacred edifice of religion. It has two sides—the natural side, and the supernatural side. All the motives of our belief, whether founded on natural reason, or on revelation, are the foundations of our religion. The reality of external nature, the immortality of the soul, the existence of God, the inspiration of Sacred Scripture, and, above all, the Divinity of Christ, are motives of our belief and foundations of our religion. Be they, therefore, persons who deny the spirituality of the soul, as materialists; or persons who deny the existence of God, as atheists; or the inspiration of Scripture, or the Divinity of Christ, or even persons who ridicule those truths when they have failed to disprove them, they really undermine our religion and accordingly fall under the present Rule.

[1] I. 32, 1. [2] St. Thomas, *ibidem*.

REGULA III.

Item prohibentur acatholicorum libri, qui ex professo de religione tractant, nisi constet nihil in eis contra fidem catholicam contineri.

This Rule seems to have been framed after the model of the first part of Rule II. of the Council of Trent. The scope of that rule was: "Libri omnes eorum qui capita vel duces fuerunt haereticorum omnino vetantur; et etiam omnes alii haereticorum libri de religione tractantes." It will be remarked that the present Rule is, however, much more lenient; for the very fact of a book, treating expressly of religion, having been written by a non-Catholic, was a sufficient reason for its proscription according to the old Rule: now all such books are permitted, unless we know that they contain something against the Catholic faith.

In the present Rule there are two expressions which require an explanation:—

Acatholicorum.—The word "acatholicus" bears a two-fold meaning. It may mean, according to its negative form, anyone outside the Catholic Church. This is the sense in which *Il Monitore Ecclesiastico* takes the word at page 25, where it applies to the word to mean heretics, Mohammedans, Jews, Gentiles, and infidels of any kind whatsoever. The word may, however, be used in a more restricted sense, to signify those who have a positive opposition to the Catholic Church in particular; and this is the meaning, I think, of the term in the present context.

Ex professo de religione tractantes.—P. Pennacchi [1] thus explains this phrase, *Porro, ex professo de religione tractare est enucleate de illa disserere, argumentis rationibusque communire, et ab objectis etiam ut par est vindicare.* Hence in order that an author treat "ex professo de religione," he must state clearly his tenets; he must bring forward arguments and reasons to establish them, and must endeavour to answer and explain away opposing doctrines.

[1] Page 56.

It must be carefully noted that the present Rule is in the form of a conditional proposition; and, accordingly, if the condition is not verified, the books mentioned must be regarded as forbidden. If, for instance, we hear of a book treating "ex professo" of religious matters, written by an "acatholicus," we are to regard that book forbidden unless we have good reasons for thinking, that it contains nothing against faith. If we are unable to ascertain whether it does or not, and begin to read it, we may be free from sin in doing so, but we are bound to desist once we detect that it contains erroneous teaching in matters of faith.

REGULA IV.

Libri eorumdem auctorum, qui ex professo de religione non tractant, sed obiter tantum fidei veritates attingunt, iure ecclesiastico prohibiti non habeantur, donec speciali decreto proscripti haud fuerint.

This Rule states that books by the same authors ("acatholici"), which do not expressly treat of religious matters, but which assail merely in a passing way the truths of faith, are not to be considered condemned by ecclesiastical law, until such time as they be proscribed by a special decree.

There are some words in the present Rule which may give rise to doubt. What is the antecedent of "eorumdem"? Does it refer to "acatholici," or does it refer to all those who have been mentioned in Rules II. and III. of the present chapter? Some may, perhaps, be inclined to refer it back to all the enemies of Catholicity mentioned in the previous Rules of this chapter, and may be led to this conclusion by reason of its rhetorical position: that being in the last part of the chapter, it would naturally sum up all that has gone before. P. Pennacchi prefers, however, to limit its reference to "acatholici" in the preceding Rule. According to the grammatical use of the word, this would seem to be correct; for a relative is naturally referred to its immediate

antecedent. Such an interpretation is also more in harmony with the spirit of the present Constitution, which would be as lenient as the substance of the law can permit.

Obiter.—"Obiter" is used in contradistinction to "ex professo." When a writer starts with the express purpose of treating of religious matters, he is said to treat "ex professo de religione." When he leaves his road to treat of a religious question which springs accidentally from his subject, he is said to treat of it "obiter."

Attingunt.—Does this word imply more than it expresses? Does it mean merely to touch, or does it also imply an effort at refutation? It would appear that it not only means to touch, but also implies an effort to refute truths of the Catholic faith; and that, accordingly, mere reference by those authors to certain Catholic truths is not sufficient for proscription.

The spirit of the present Constitution, as has been already frequently stated, is to make the laws of the Index as lenient as their substance will permit. If the books of non-Catholics merely touched on truths of the Catholic faith, and did nothing else, how could they be deemed in any way worthy of condemnation? In the preceding Rule it is stated that the books of non-Catholics which treat "ex professo de religione," shall not be proscribed unless they contain something against faith; *a fortiori* then, books by the same authors *not* treating "ex professo de religione," but merely touching them, cannot be deemed worthy of proscription unless they contain something against the Catholic faith. Therefore, they must do more than merely touch on truths of the Catholic faith.

Jure Ecclesiastico.—What is the ecclesiastical law here spoken of? It can be no other than the present Leonine Constitution; for all previous legislation on the Index has been abrogated except the *Sollicita ac Provida* of Benedict XIV., and the Bull of Benedict XIV. refers, not to the

Rules of the Index, but to the internal organization and working of the Congregation of the Index.

And here a question of interest and of some importance suggests itself. Are there other laws besides ecclesiastical law by which bad books are forbidden? The present Rule evidently implies that there are; for if there were not, why mention specially ecclesiastical law? If a book were permitted by every law human and divine, once that it was permitted or tolerated by ecclesiastical law, why not use a general statement and say *permittitur* instead of saying *jure ecclesiastico non prohibetur?*

In explanation, then, it must be said, that a book may be forbidden by the natural, the divine, or the ecclesiastical law. The natural law regulates the preservation of the individual and the race. Any book, therefore, teaching anything tending to the destruction of either one or the other is condemned by the natural law. Accordingly, all books commending suicide, or tending to the promotion of immorality, or the destruction of government, are forbidden by the natural law. It was this law, known by the light of reason to the Pagans, that induced the more cultured and refined among the ancient Romans to abhor the immoral books then in circulation, and which induced Julius Cæsar to condemn the work of Ovid, *De arte amandi.* As the natural law has the natural order of things for its object, so the divine law has the supernatural order of things. By the divine law, we are forbidden not only books which would be the cause of our committing sin, but also those which would *expose us* to the danger of committing sin—unless indeed a proportionately grave cause supervene. There will be many books accordingly forbidden us by the divine law, which would have been permitted by the natural law; for how many books are there that should be an occasion of sin to us, which, nevertheless, contain not a

sentence against the natural law. Lastly comes the ecclesiastical law, which proscribes many books permitted both by the divine and the natural law. How many are the books of apostates, heretics, and philosophers, which contain nothing against the natural law, which would not occasion us the slightest temptation, and which are still forbidden by the ecclesiastical law? Now, with regard to the relations that exist between those three laws, it is to be remarked that, while the *extension* of the natural law covers both the divine and the ecclesiastical law, the *comprehension* of the ecclesiastical law includes that of the divine and natural law. What is forbidden by the natural law, then, will also be forbidden by the divine and ecclesiastical law; but not *vice versa*. There will be many books in no way subversive of the natural order of things, or of an occasion of sin, to the majority of people, which will, nevertheless, be forbidden by the ecclesiastical law. Thus liturgical books, in which the authentic edition was altered somewhat, would be forbidden by Rule XVIII., though offending in no way against either the natural or divine law.

How, then, are we to understand the words of the legislator: *Jure ecclesiastico prohibiti non habeantur?* Are we to understand them as implying that the ecclesiastical law might approve of what was forbidden by either the divine or natural law? We are to understand those words, not exactly as implying a possible approval, but, rather, as a toleration by the Church of such works until such time as she deems it advisable to add her prohibition to that of the natural and divine laws.

Donec speciali decreto proscripti haud fuerint.—Here the legislator remarks that if any particular cause should arise for proscribing a book which had been tolerated, a special decree will be published announcing its proscription. With this decree it shall become proscribed to all.

Chapter II.

EDITIONS OF THE ORIGINAL TEXT OF THE SACRED SCRIPTURES, AND OF NON-VERNACULAR TRANSLATIONS.

Regula V.

Editiones textus originalis et antiquarum versionum catholicarum Sacrae Scripturae, etiam Ecclesiae Orientalis, ab acatholicis quibuscumque publicatae, etsi fideliter et integre editae appareant, iis dumtaxat qui studiis theologicis vel biblicis dant operam, dummodo tamen non impugnentur in prolegomenis aut annotationibus catholicae fidei dogmata, permittuntur.

Chapter I. is an introduction to the entire set of Rules: it is, as it were, a general proposition, and the rest of Tit. I. a specification of it. Now, examining the sacred edifice of religion of which mention has been already made under Rule 2, we find that one of its fundamental parts is the Sacred Scripture; we find that another very important part is the purity of the morals of the faithful, and good social order; and we find that a third is the Sacred Liturgy of the Church, which is the external expression of her internal belief. To these parts of the sacred edifice the legislator in the subsequent Rules directs his attention, and he provides a protection and a safeguard against the books that assail them. First, then, come the books that treat of Sacred Scripture, and to them the legislator devotes two chapters—Cap. II. and Cap. III.

The second chapter of Rules treats of the original texts of the Sacred Scripture, and of translations published in other than the common language of the people. The first Rule of this chapter prescribes that the editions of the original texts of the Sacred Scriptures, and of old Catholic versions of the same—whether of the Eastern or the Western Church—published by non-Catholics, are forbidden, though they appear to have been published in their entirety and purity; they may, however, be read by those engaged in theological or biblical

studies, provided that none of the Catholic dogmas are assailed in the preface or introduction.

There are some terms that require an explanation in the present Rule:—

Textus originalis.—A copy (exemplar), and edition, and a text of any book are not to be confounded one with the other. Text, does not mean the book as it came forth from the hands of its author; as such the book is called an autograph. Nor does it mean any of the copies made by scribes from the autograph of the author; nor, again, the translations made from the autographs in the very early ages; but it means the book in the same *form* as it had been composed by the author. And if we speak of the Sacred Scriptures, the *form* that will specify the original text will be the language in which it was originally written. Any of the books, then, of Sacred Scripture in the language in which it was composed by its author is called an original text.

Versiones antiquae.—A version is the same thing as a translation; and the ancient Catholic versions are the different Catholic translations that were published during the first six or seven centuries. Those translations are divided into two classes by the present Rule: the translations made in the Western Church; those made in the Eastern Church. The following are the members that fall into each of those classes:—

- Versiones antiquae
  - I. Latin Church: versiones
    - (*a*) versio Italia
    - (*b*) vulgata Latina
  - II. Eastern Church: versiones
    - (1) versio Alexandrina
    - (2) „ Origeneana
    - (3) „ Samaritana
    - (4) „ Chaldaica
    - (5) „ Syriaca
    - (6) „ Araba
    - (7) „ Aethiopica
    - (8) „ Persica
    - (9) „ Aegyptiaca
    - (10) „ Armena

Qui studiis theologicis vel biblicis dant operam.—The interpretation of those words has given rise to a number of rather vexed questions. Do they apply only to students who frequent universities, colleges, or seminaries? or do they include those who privately study theology or Sacred Scripture, whether lay or clerical? This question was proposed to the Sacred Congregation for solution:—

Utrum haec verba art. 5 "qui studiis theologicis aut biblicis dant operam" intelligenda tantum sint, de doctis viris, iis scientiis deditis, aut extendi valeant ad universos S. Theologiae tyrones?

Resp.: Neg. ad 1^m partem.

Aff. ad 2^m partem.

Datum Romae ex Secretaria ejusdem S. Congregationis Indices die Maii 23 1898.

A. Card. Steinhuber, *Praefectus.*
Fr. M. Cicognani, O.P., *Sec.*

The terms, then, are rather extensive, and will include all those who devote themselves, whether privately or publicly, to the study of theology or Sacred Scripture.

There have been two other queries proposed to the Sacred Congregation on the signification of those same words:—

(a) *Utrum sub nomine eorum "qui studiis theologicis vel biblicis dant operam" veniant etiam alumni qui theologiae et linguae Hebraicae ac Graecae in scholis Seminariorum vacant: et quatenus affirmative,* (b) *utrum possit permittere, ut in scholis, alumni sub ductu professoris, textus Hebraicos et Graecos ab acatholicis editos legant ac vertant, dummodo non impugnentur in prolegomenis aut annotationibus talium librorum catholicae fidei dogmata?*

Resp.: Ad 1^m partem: Affirmative.

Ad 2^m partem: Negative: nisi specialem a S. Sede facultatem obtinuerit.

Datum Romae ex Secretaria ejusdem S. Congregationis die 21 *Junii* 1898.

A. Card. STEINHUBER, *Praefectus.*
Fr. M. CICOGNANI, O.P., *Secret.*

In nearly all great ecclesiastical colleges certain portions of theology or Sacred Scripture are studied simultaneously with Hebrew or Greek. In Hebrew, of course, the text-book will be the Old Testament in the original text, and sometimes the original of the New Testament will be the text-book in Greek. Now, can the students of such colleges make use of editions of those books published by non-Catholics? The answer given by the S. Congregation is that they may: for they are engaged in theological or biblical studies.

The second query would seem to refer to certain classes of seminaries. In diocesan seminaries the text-book prescribed in Greek was very often some portion of the original text of the New Testament, and Protestant editions were selected, as they contained a more ample vocabulary, and, perhaps, better grammatical annotations than Catholic editions. Such an act would appear quite pardonable and excusable, as the text was entire and pure, and no reference made to Catholic dogmas, either in the notes or introduction. But according to the present Rule (interpreted by the Sacred Congregation), bishops have no power to select such works for their seminaries. They may, however, obtain a special permission from the Holy See as the Congregation suggests.

This Rule is very complicated in its construction, and suggests a great many difficult questions. In order to grasp it in one single concept, and thus be prepared for any possible deduction that may be made from it, it will be well to examine and analyze its logical form.

The Rule is in the form of a composite, exclusive proposition. It is composite because it consists of no less than four propositions joined together, and the particles joining those propositions are exceptive particles. Thus:—

(1) *Editiones textus originalis et antiquarum versionum . . . ab acatholicis quibuscumque publicatae, non permittuntur.* (2) *Etsi fideliter et integre editae appareant.* (3) *Permittuntur autem* (*iis dumtaxat*) *iis qui studiis theologicis vel biblicis dant operam;* (4) *dummodo non impugnentur . . . Fidei dogmata.*

Now, what is the relation of those four propositions? The second one is merely an explanation of the first, or an exclusion of a certain interpretation that might be given to it; the third is an exception to the general rule laid down in the first; and the fourth is again an exception to this exception.

Hence the following questions: Are we free to read and use editions of the original texts of the Sacred Scriptures published by non-Catholics? No; such editions are strictly forbidden to the general public. Would we be permitted to use them if they appeared to be whole and entire and faithfully and conscientiously edited? No; even then they would be forbidden. Is it, then, unlawful for all Catholics to use editions of the original texts of the Sacred Scriptures published by non-Catholics? They may be used by such as are engaged in theological or biblical studies, whether they pursue those studies publicly or privately. Is there any precaution to be taken by such students of theology or Sacred Scripture? Yes; they must see that such editions contain nothing against faith, either in the introduction or in the annotations.

REGULA VI.

Eadem ratione, et sub iisdem conditionibus, permittuntur aliae versiones Sacrorum Bibliorum sive latina, sive alia lingua non vulgari, ab acatholicis editae.

It will be useful to compare this with the foregoing Rule. Rule V. speaks of editions of the original texts of the Bible, and of old translations of the same, made into Eastern and Western languages. In this Rule there is no mention at all of editions of the original texts, but only of translations—*versiones;* moreover, the Rule does not speak of translations made before the fifth century, but of translations made at a much later date; for those made before the fifth century are properly called ancient translations. There is a still further distinction to be made: translations may be made into the common language of the people, or into a language now dead, or if not dead, used only in literature.[1] Now the present Rule prescribes nothing about translations made into the language of the people; it treats of the modern translations made into languages not *vernacular*. Those are, for the most part, modern Latin translations made in imitation of the ancient vulgate translation of St. Jerome, to which we have already referred.

Aliae versiones.—But besides the Catholic Latin translation, there have been made many others by non-Catholics. The most notable of them are:—that of Erasmus and Theodore Beza; the versio Munsteri; that of Leo the Jew, made in 1543; the versio Sebastiani Castalionis, made in 1551; the versio Junii et Tremelii, made in 1590; and finally, the versio Geneviensis, made about the same time.

Now, the exception and the condition of the preceding Rule are implied in this Rule. Accordingly, all modern

[1] In Armenia, for instance, there are two distinct living languages: the "Lingua Vulgaris" or spoken language, and the "Lingua Literalis" or the language of literature and liturgy.

translations of the Sacred Scriptures into languages not vernacular, made by non-Catholics, are generally forbidden, no matter how good they be. However, they may be used by such as are engaged in theological or biblical studies, but only provided that they contain nothing either in the introduction or in the annotations contrary to faith.

Chapter III.

VERNACULAR TRANSLATIONS OF SACRED SCRIPTURES.

Regula VII.

Cum experimento manifestum sit, si Sacra Biblia vulgari lingua passim sine discrimine permittatur, plus inde ob hominum temeritatem, detrimenti quam utilitatis oriri; versiones omnes in lingua vernacula, etiam a viris catholicis confectae, omnino prohibentur, nisi fuerint ab Apostolica Sede approbatae, aut editae sub vigilantia Episcoporum cum adnotationibus desumptis ex Sanctis Ecclesiae Patribus, atque ex doctis catholicisque scriptoribus.

It will be necessary to note accurately the difference between the subject-matter of the present chapter of Rules and that of the preceding chapter. The subject-matter of Chapter II. was *editions of the Bible published by non-Catholics, in Latin or any other language not spoken by the people.* The subject-matter of Chapter III. is *editions of the Bible published by any author whatsoever in a vernacular language.* The present Rule, then, prescribes that all vernacular versions of the Sacred Scripture, published by either Catholic or Protestant authors, are strictly forbidden, unless they have received the approbation of the Holy See, or have been published with notes and explanations taken from the Fathers of the Church and learned Catholic authors, under the supervision of the bishops.

The form of the present Rule is rather complex, and owing to its many parts, and their relation to one another, a great many puzzling questions might arise had we not clearly

before our minds its logical analysis. Its logical analysis may be thus graphically shown :—

- I. Part: Reason of framing it:—cum experimento manifestum sit . . . quam utilitatis oriri.
- II. Part: Conditional Proposition.
  - (*a*) *conditionatum:* versiones omnes in lingua vernacula (etiam a viris catholicis confectae) omnino prohibentur.
  - (*b*) *conditiones:*
    - (1) nisi fuerint ab Apostolica Sede approbatae.
    - (2) aut editae sub vigilantia episcoporum cum adnotationibus desumptis + ex Sanctis Ecclesiae Patribus + ex doctis catholicisque scriptoribus.

Looking, therefore, at the Rule, we perceive that it is composed of two main parts. The first part expresses the motive which led the Pontiff to frame it—the injury done to religion by allowing indiscriminately translations of the Bible. The second part of the Rule is an hypothetical proposition; the "conditionatum" is plain and easy enough—that all vernacular translations of the Sacred Scriptures are forbidden, no matter by what author they may have been published. The "conditio," however, is apt to give trouble unless carefully examined; it is double, and its two parts must be taken disjunctively and not conjunctively, as the disjunctive particle "aut" clearly indicates. Hence, if any one of them be verified the vernacular translation may be allowed to pass: if either the Apostolic See or the bishop has approved the translation, we are allowed to read and use it. Furthermore, the second condition is composed itself of two parts: the annotations must be taken both from the Fathers of the Church and from approved Catholic writers; for there are many questions on which we have not clear and explicit testimonies in the writings of the Fathers, and which are, notwithstanding, dogmas of our faith, or the common teaching of theologians; and in order that the

simple faithful may not be in doubt about such truths they will require to have the explicit teaching of approved Catholic writers. Hence the present Rule speaks of two kinds of approbation—the approbation of the Holy See, and the approbation of bishops. A translation of the Bible which has received the approbation of the Holy See may be read naked of all annotation or explanation. A bishop's approval, however, does not suffice alone: the translation must be illustrated with annotations; nor will any kind of annotation do: they must be taken both from the writings of the Fathers and from approved Catholic authors.

From an examination of the logical structure of the Rule, we may now answer the following questions: Are translations in the vernacular of portions of the Sacred Scripture freely allowed? No; for experience teaches that from such an indiscriminate use more harm than good would be caused. What if the translations had been made by Catholics? They would be forbidden, even though made by Catholics. What editions, then, in the vernacular are allowed? Only those that have been duly approved. By whom are they to be approved? By the Holy See and by bishops. When may we use an edition in the vernacular which has been approved by the Holy See? We may always use it, even though it is not annotated. What editions are approved by bishops? Bishops approve only those vernacular editions that are annotated, and the annotations must be taken both from the Fathers of the Church and from the writings of learned and approved theologians.

The aim or scope of this Rule suggests two questions: What of a *Monotessaron*, of the gospels or any other such work, composed, indeed, of words or passages taken from the Sacred Scriptures, and arranged so as to form a treatise? Would such works come under the present Rule, and accordingly require to be annotated with passages from both the

Fathers, and from approved theologians, in order that a bishop might approve of it? In reply, I should say that such works are rather treatises on Sacred Scripture, than editions; and accordingly, that a bishop might give approval of them, just as he might of a commentary on a part of Sacred Scripture.

What of Bible Histories, or paraphrases of certain parts of the Sacred Scriptures? Do they come under the present Rule? It would appear that they do not: they, likewise, are rather treatises than editions; and may accordingly be approved by a bishop, just as any other work on Sacred Scripture or theology.

REGULA VIII.

Interdicuntur versiones omnes Sacrorum Bibliorum, quavis vulgari lingua, ab acatholicis quibuscumque confectae, atque illae praesertim, quae per Societates Biblicas, a Romanis Pontificibus non semel damnatas, divulgantur, cum in iis saluberrimae Ecclesiae leges de divinis libris edendis funditus posthabeantur.

Hae nihilominus versiones iis qui studiis theologicis vel biblicis dant operam, permittuntur: iis servatis, quae supra (n. 5) statuta sunt.

The last Rule was specially directed against authors—whether Catholic or Protestant—who might presume to publish translations of the Bible independent of the approbation of the Church; the present Rule is mainly directed against Bible Societies. Bible Societies despise and violate all the salutary regulations of the Church regarding the translation of the Sacred Scriptures; they are quite heedless of preserving the Sacret Text in its purity and integrity, and rest content and satisfied with their work, if they succeed in getting men to use their own private judgment in interpreting the Bible, independent of the authority of the Catholic Church. The present Rule, therefore, prescribes that all translations made in vernacular languages by non-Catholics, and especially those made by Bible Societies, are strictly forbidden. Those persons, however, who are engaged in

theological or biblical studies may read them—provided that there is no Catholic dogma assailed either in the preface or introduction.

A practical question here suggests itself with regard to the interpretation of the words *qui studiis, theologicis vel biblicis dant operam, permittuntur : iis servatis quae supra* (*Regula* 5) *statuta sunt :* Do all priests, whether in colleges or on missionary work, come under the clause, *qui studiis theologicis dant operam,* and accordingly enjoy the privileges stated in Rules 5, 6 and 8?

It would appear from the interpretation given to this clause by the Sacred Congregation, that they do: for are not all priests professionally bound to continue the study of Sacred Scripture and theology?

Chapter IV.

IMMORAL LITERATURE.

Regula IX.

Libri qui res lascivas seu obscenas ex professo tractant, narrant aut docent, cum non solum fidei, sed et morum, qui hujusmodi librorum lectione facile corrumpi solent, ratio habenda sit, omnino prohibentur.

After having treated of the Sacred Scriptures in Chapters II. and III. the legislator here turns to immoral literature This would seem to be the order of importance too; for as there is no book that begets such purity and sanctity of life as the Bible when read in its genuine form, with the proper dispositions, so there is no book that can breed such evils, when read with bad dispositions or in a corrupted form, according to the well-known adage "corruptio optimi pessima."

The present Rule is not new; it is nothing more than a transcript of the seventh Rule of the Council of Trent. There is one clause, however, of the Tridentine Rule, as may

be seen,[1] omitted in this: "*et qui eos* (*libros*) *habuerint, severe ab episcopis punientur.*"

There are some terms in the present Rule that demand an explanation.

Ex professo tractare de rebus obscenis.—I have already explained in a former context what it is to treat a subject "ex professo." A subject may be said to be treated "ex professo" in any book when it has been from the outstart the main scope of the author. Hence, a book may be said to treat "ex professo de rebus obscenis," wherein the author introduces an immoral practice, explains it, lauds it, endeavours to justify it, and to destroy the arguments against its lawfulness. By virtue of this clause, therefore, all those books, for instance, that impugn the Sacrament of Marriage as bad and immoral, and those that propose, teach, and endeavour to justify any immoral practice, are strictly forbidden. On the other hand, all works on theology that merely state those doctrines to refute them, and all works on medicine that state such practices to explain the possible physiological effects that might ensue, are not proscribed. It will depend very much, however, on the age, the training, or the profession of the individual, whether such books be not forbidden him by the natural or divine law.

Res obscenas narrare.—To narrate obscene things is to recount the immoral acts of others, whether real or fictitious, with all their circumstances. This clause of the Rule, according to P. Pennacchi, refers to four different species of modern literature—the *romance*, the *novel*, the *fable*, and the *tale*, a division which comprises, perhaps, the whole world of modern fiction. A word in explanation of each.

The word *romance* has been derived from *Romanus*, and was at first applied to designate a certain family of languages

[1] Cf. *Decreta Trid.*, pag. 301.

—the offshoots of the ancient *Lingua Romana*. In the course of time the word has lost this fundamental meaning, and as far back as the thirteenth century we find the word used to designate—not the language, but the works written in the language. This change in the meaning of the word was caused quite simply. About the thirteenth century two different classes of literature began to appropriate to themselves, exclusively, two different classes of languages. All works on arts and sciences continued to be written in the Latin language, and all works of fiction began to be written in the current dialect of the people. The very structure of the Latin language obliged the authors to make this selection; for they found that it was too stiff and stately to stoop down and adopt new manners of expression and words of new formation suited to the altered character of the people and the analytical manners of thought that began to be in vogue. Works, then, written in the offshoots of the Latin language were called *romances*. Now, what was the character of those books? Their *subject* was some great knight of chivalry; hence chivalry and romance are always associated. As regards their *form*, they devoted themselves rather to the narration of great achievements than to the delineation of character. Hence we may define a romance as a work of fiction which treats of the wondrous deeds of some hero of by-gone days.

The *novel* differs from the romance in its *specific object:* while the romance goes back to former days to find some hero for a subject, the novel seeks its subject in more recent times from the ordinary scenes of life; and on this account it is called novel (*nouvelles, novella*). It differs from the romance in its *form;* the romance takes the form of a *narration*; the novel is a *delineation of character*. It may delineate its subject in either of two ways—by manifesting his drollery, or by analyzing his inclinations. We may,

therefore, define the novel as a work of fiction which delineates the characters of men or women taken from the ordinary scenes of life.

The *fable* has for its *object* the inculcation of some moral truth. To inculcate this moral truth it does not employ the direct and literal use of language, but takes irrational, and sometimes even inanimate objects of nature, and makes them speak and act as living men and women. We may, therefore, define the fable as a work of fiction in which irrational and sometimes inanimate beings are, for the purpose of moral instruction, feigned to act and speak with human interests and passions.

A *tale* implies something told (*tellan* = to tell; Fr. *conte* = *racconter*). A tale, therefore, is a work of fiction written in the form of oral narration. When we say a *wonderful* romance, an *interesting* novel, an *instructive* fable, and an *amusing* tale, we state briefly the specific character of all those kinds of fiction.

But how are we to know that a romance, a novel, a fable, or a tale is proscribed by the present Rule? The Rule itself supplies the criterion: *when it is dangerous either to faith or morals.*

Docent res lascivas.—P. Pennacchi [1] thus explains this expression: "*Demum libri qui res obscenas docent sunt illi, qui tradunt et explicant, quomodo, quibusve modis, turpes actus perficiantur, quibus artibus mulieres, praesertim adolescentulae, corrumpi et ad propria desideria pertrahi possint.*"

Cum non solum fidei, sed et morum qui hujusmodi librorum lectione facile corrumpi solent ratio habenda sit.—In those words the legislator states the reasons that have led him to proscribe the class of books which I have explained: they were—to preserve the faith and morals of the people.

In justification of this severe prohibition, it may be repeated how all civilized governments, even in pagan times,

[1] Page 85.

actuated merely by political expediency, and consulting only the temporal welfare of their subjects, proscribed immoral works, under the severest penalities, and sometimes exiled or imprisoned their authors; and experience teaches the baneful effect on faith, and on the whole moral character of immoral literature.

The reasons why immorality should so generally lead to the entire loss of faith, and why it should be so injurious to the whole moral character are sometimes discussed. The Angelic Doctor, treating of this matter,[1] remarks, that though we oftentimes see those who are enslaved by animal and carnal passions, subtle in mind, resolute in will, and even remarkable for intellectual activity, yet there is nothing so calculated to blunt the sharpness of our senses, and to overshadow the brightness of intelligence, as indulgence in intemperance in eating and drinking, and in sensuality. Indulgence in any passion engrosses the attention of the mind; and the more vehement the passion, the more absorbing it is of the energies of the human faculties. Of all desires or emotions within the human breast, there are none so vehement, or absorbing, as those of intemperance and sensuality, and nothing that so strongly binds and rivets the human faculties on the corporeal; and as the perfection of the human intelligence consists in abstraction from what is material and particular, and its concentration on what is spiritual and universal, so there is nothing that impairs the human mind, as those two kinds of self-indulgence. On the other hand, observes the Angelical, as those passions are so injurious to the perceptive power of the senses, or the faculty of intelligence, so nothing is calculated to sharpen the senses, or to brighten the intelligence, as the practice of abstinence and chastity. Hence

[1] II-II. 15, 3.

we read in the Sacred Scriptures, that, *To those boys* (Daniel Ananias, Misail and Azarias, who were both chaste and abstemious) *God gave knowledge and understanding in every book and wisdom.*

The Rule implies that immoral literature has a baneful influence on the whole moral character;—*Cum non solum fidei sed et morum, qui hujusmodi librorum lectione facile corrumpi solent, ratio habenda sit.* Affecting the exercise of the mental faculties, immorality directly affects in consequence the practice of all the intellectual moral virtues as well. It affects the virtue of wisdom, which considers the highest cause of things and the ultimate end of human actions; it affects the virtue of understanding, the object of which is the natural truths known by the light of reason; and the virtue of knowledge, which arrives at conclusions by deduction and induction. It will affect the virtue of art which is exercised in exterior material works, and the virtue of prudence, which is exercised in directing human actions. Now, prudence (*porro-videns*) is the eye, the guide, of all the virtues. Faith, or hope, or charity, or any virtue may lay before us an end to be attained: prudence it is, that guides us to its attainment. It is impossible, writes Aristotle, to be prudent without being at the same time good;[1] and St. Gregory the Great has it that no virtue deserves the name of virtue unless it be guided by prudence.[2] Hence, immorality affecting the intellectual powers and the intellectual virtues, and especially that of prudence, will consequently affect the whole moral character.

The class of literature proscribed by this Rule, besides having an injurious effect on the human faculties, and consequently on the moral character, have a degrading effect also. The impurity of anything, observes elsewhere the Angelical,[3] arises from its being mixed with something of a

[1] II-II. 47 13. [2] II-II. 47, 14. [3] II-II. 7, 2.

lower and more vile nature. No one, for instance, would say that silver is rendered impure by its being mixed with gold; whereas we might correctly say, that it was adulterated by being alloyed with lead or any other baser metal. Now of all corporeal things, there is nothing so noble, nothing created for such an exalted destiny, as man; and, therefore, his heart is soiled, and his whole nature and character degraded, by being enchained and enslaved with what is merely material and fleeting; whereas it is purified and ennobled by being attached to God, who is the source of all the beauty and perfection that is preceptible in the world.

What is here said of the moral virtues is especially applicable to faith, and to the other theological virtues. As the light of the sun reaches the depths of a pure and limpid sheet of water; and as a polished mirror reflects a clear image of all objects around; so the light of the human intelligence, gazing through senses unsoiled with the mire of animal passion, and free from its engrossing influence, will be able to perceive more efficiently the spiritual nature of God; and looking into the untarnished mirror of the soul, will see there, more distinctly the likeness of Him who made her.

From this, it will be perceived, the difference in motive between the civil proscription, and the ecclesiastical proscription of immoral literature. The object of the civil proscription is to preserve the State: the object of ecclesiastical proscription, as stated in this Rule, is to *preserve faith and morals*. The State would remove immoral literature from circulation, in order to safeguard the temporal efficiency of its subjects; the Church in doing the same thing would have the eternal law of God observed, who would have everything He has created brought to perfection. Both the Church and State have before their eyes, so to speak, the map of the moral virtues, that should adorn the human character: but

whereas the State regards it, from a natural point of view, the Church considers it, from a supernatural point of view; and, moreover, the Church consults the theological virtues, whereas the State disregards them.

A practical question here arises regarding a large number of books—legal, medical, or scientific—treating of immoral subjects. Would they be forbidden to all by virtue of this Rule?

In reply, I should say that by virtue of the present Rule such books written, as is presumed, for scientific purposes would not be forbidden to all, though by virtue of the natural or divine law they would be forbidden to some. In explanation, I should call attention to the force of the qualifying expression *ex professo tractantes*.

Three things may be clearly distinguished: the subject-matter of a book, the scope and intent of the writer, and the avowal of his intent; and those three things are required for an *ex professo* treatment. Let the subject-matter of such books be as gross as gross can be; their scope (as is presumed in the question) is not to be immoral, but to be scientific or instructive, and, therefore, they are not *ex professo* immoral; and, consequently, do not come under the proscription of the present Rule.

However, though not coming under the present Rule, they would still be strictly forbidden to some by another law. They would be ruinous, for instance, to the young, to the innocent, and the impressionable, and, accordingly, to such persons, they would be strictly forbidden, both by the natural and the divine law. If so, then, it may be urged, why are they not included in the proscription of this Rule?

In reply, it may be said, that as the Church is the guardian of both nature and grace, she who directs each individual in the tribunal of Penance, would be the very first to announce

to them the obligation of the natural and divine laws, and to forbid them to read anything that would in any way be injurious to them. But as those books, of which there is question, are not injurious to all, nay, are highly useful to some, and as, according to the adage from the Angelic Doctor[1] : *Lex ordinatur semper ad bonum commune*,—ordained for the welfare of the entire community, and not for individuals,—they are not included in the present Rule, which is intended as a law for the guidance of the universal public.

Regula X.

Libri auctorum sive antiquorum sive recentiorum, quos classicos vocant si hac ipsa turpitudinis labe infecti sunt, propter sermonis elegantiam et proprietatem, iis tantum permittuntur, quos officii aut magisterii ratio excusat : nulla tamen ratione pueris vel adolescentibus, nisi solerti cura expurgati, tradendi aut praelegendi erunt.

The present Rule bears the same relation to the last Rule that a particular proposition does to a general one. The last Rule treated of immoral books in general ; the present Rule speaks exclusively of the works of classic authors. Together with being a specification of the last Rule, it is a kind of concession : the last Rule was an absolute prohibition, the present Rule is a conditional concession. It prescribes that the immoral books of ancient or modern classical authors are permitted to those whom duty as teachers or as superiors excuses—but to no others. On no account are they to be given to boys or read by them, unless they have been previously carefully expurgated.

This Rule seems to be an exception to the general spirit of the present Constitution. We have already seen that the intention of the legislator in framing the present Constitution was to render the Rules more lenient and more liberal than the previous ones ; we find, however, that the present Rule

[1] I.-II. 90, 2.

is more severe and strict than the corresponding Rule of the Council of Trent. This will be seen from a collation of the two :—

Leonine Rule.	Tridentine Rule.
(*a*) Libri auctorum sive antiquorum, sive recentiorum, quos classicos vocant, si hac ipsa turpitudinis labe infecti sunt, propter sermonis elegantiam et proprietatem, iis tantum permittuntur, quos officii aut magisterii ratio excusat: (*b*) nulla tamen ratione pueris vel adolescentibus, nisi solerti cura expurgati, tradendi aut praelegendi erunt.	(*a*) Antiqui vero (libri res lascivas tractantes) ab etnicis conscripti propter sermonis elegantiam et proprietatem permittuntur: (*b*) nulla tamen ratione pueris praelegendi erunt.

We will remark that the Tridentine Rule is composed of two parts; the first part is an absolute permission: the second an absolute prohibition. On the other side, we see that the Leonine Rule is also composed of two parts: the first is merely a conditional permission—a restriction made on the Tridentine Rule; the second is also a conditional permission—a favour granted beyond the Tridentine Rule. Now, throwing one part against the other we cannot say that the present Leonine Rule is a mitigation of the old Tridentine Rule.

There is one expression in the present Rule that requires elucidation. *Quos officii aut magisterii ratio excusat.* All those are excused, *ratione officii,* who by reason of their position as superiors must read and prevent the circulation of the books herein proscribed. Amongst them are included—as we shall hereafter see—pontifical nuncios, apostolic delegates, bishops with their vicars-general; and it would seem that administrators, rectors of universities, presidents, and deans of colleges and seminaries, are also included. *Ratione Magisterii* are excused, all those who act as professors in such universities, colleges, or seminaries as follow the programme of studies prescribed by the public Board of

Education. On the other hand, professors in colleges and seminaries which do not follow the programme of studies prescribed by the public Board of Education, but one selected and approved by the bishop under whose direction and jurisdiction the college is, have no permission to read such books. The reason for this is very simple: A university or the public Board of Education may place such a book on its programme, and accordingly oblige the professors to teach it; but it is highly improbable that a bishop would select an immoral book for study in his seminary.

What exactly is required on the part of the classic work that it be proscribed by the present Rule? Must it treat "ex professo de rebus lascivis"; or does it suffice that it touch on such matters merely incidentally—*obiter*? Amongst commentators on the Rules, there are two opinions. 1°. *Il Monitore Ecclesiastico* holds that it suffices to treat "obiter de rebus lascivis" to have the book proscribed: "*non si distingue fra libri che trattono ex professo e quelli che no, tutti seguono la stessa regola.*"[1] 2°. Pennacchi,[2] however, holds that it is necessary that the classic work treat "ex professo de rebus lascivis," in order that it be proscribed by the present Rule; and this would seem to be the more plausible and the more firmly established opinion.

In the introduction we saw that when two probable interpretations of any word or phrase presented themselves in the course of the present Rules, we were to accept the more liberal and the more lenient; and that we should thus be acting in accordance with the primary wish of the legislator, whose wish it was to make the present Rules so liberal and so lenient as to bring them within the reach of everybody of good dispositions. Now, is it probable that the Pontiff would exact more from a classic author than from an

[1] Page 34. [2] Page 86.

ordinary scribbler? It would appear that he would not. But according to the last Rule immoral books of ordinary worth are not proscribed unless they treat "ex professo de rebus lascivis": therefore neither is a classic work.

But, apart altogether from the indulgence that we naturally grant to those who express themselves in neat language, and represent their ideas under the garb of beautiful imagery, a strong reason arises from the grammatical structure of the present Rule: "*Libri auctorum sive antiquorum, sive recentiorum, quos classicos vocant si hac ipsa turpitudinis labe infecti sunt.*" Now, what is the antecedent of "*hac ipsa . . . labe*"? It is not to be found in the present Rule; we must, therefore, go back to the preceding Rule to discover it; but in the preceding Rule we find—not "obscenitas obiter tractata," but "obscenitas ex professo tractata"—"*qui res lascivas seu obscenas ex professo tractant.*" Therefore the Rule manifestly implies an "ex professo" treatment. What, however, almost settles the question is the fact that many books which treated *obiter* of immoral subjects, and which were included in the old Index, are not to be found in the new one. Thus, the *Paradise Lost* and the *Decamerone* of Boccaccio, were on the old Index, but are not on the new one,—a fact which would lead one to believe that the Congregation of the Index has followed the more lenient interpretation in its compilation of the new Index. Whichever of those two opinions be in theory the correct one, it would appear that in practice we must follow the more lenient one; for as it has a solid foundation we cannot impose the opposite opinion on anyone.

Chapter V.

Irreligious, Superstitious, and Socialistic Books.

Regula XI.

(*a*) Damnantur libri in quibus Deo, aut Beatae Virgini Mariae, vel Sanctis, aut Catholicae Ecclesiae ejusque Cultui, vel Sacramentis, aut Apostolicae sedi detrahitur. (*b*) Eidem reprobationis judicio subjacent ea opera in quibus inspirationis Sacrae Scripturae conceptus pervertitur, aut ejus extensio nimis coarctatur. (*c*) Prohibentur quoque libri qui data opera Ecclesiasticam Hierarchiam, aut statum clericalem vel religiosum probris afficiunt.

As the scope of Chapters II. and III. was to preserve the Sacred Scriptures, pure and integral, and of Chapter IV. to preserve the morals of the faithful free from corruption, so the main scope of Chapter V. would appear to be to preserve respect for legitimate authority and order within lawful societies. All authority comes from God, and from Him descends to the Church, the family, and the State; the individual is the simplest factor of these three societies. In the present chapter of Rules we shall, therefore, find mention of the following classes of books :—

Those books that are wanting in respect to God, the Blessed Virgin, or the saints.

Those that pervert the notion of the Divine inspiration of the Scriptures, or restrict it too much.

Those that assail the Catholic Church, its discipline, the priesthood, or the religious life.

Those that are irreligious by excess.

Those that publish the miracles of the servants of God without ecclesiastical approval.

Those that strive to justify suicide.

Those that strive to justify divorce.

Those that strive to justify Freemasonry, or any other society subversive of ecclesiastical or civil order.

By the 11th Rule are proscribed three classes of books : books that detract God, the Blessed Virgin, the saints,

the Catholic Church, and its worship, the sacraments, or the Apostolic See; books that pervert the notion of the Divine Inspiration of the Scriptures, or that limit its extent too much; books that intentionally assail the ecclesiastical hierarchy, or the clerical or religious state. I will treat of each class in a separate paragraph.

§ 1.

Detrahitur.—Detraction is the characteristic mark of the first class of books. Though detraction has something common with contumely, still they are carefully to be distinguished one from the other. They differ in their *object;* for whereas contumely is directed against a person's honour, detraction is directed against a person's reputation; they differ in their *manner;* for while the calumniator is open and violent, the detractor is stealthy and deceitful. A person is said to be contumelious because he swells and bursts from anger, as it were, in our face; and a person is said to be a detractor because he subtracts or steals some of our titles to esteem.[1] As the burglar injures us by open robbery, so does the calumniator by open dishonour; and as the thief injures us by roguery so does the detractor by secret slander. Accordingly, we find in Sacred Scripture the detractor compared to a vicious viper: "*Si mordeat serpens in silentio, nihil eo minus habet qui occulte detrahit;*"[2] and we find stupidity assigned as the cause of calumny: "*Omnes sulti miscentur calumniis.*"[3]

Deo.—A book, then, detracts God, that denies any of His attributes: His omnipotence, His eternity, His supreme goodness, His mercy, His justice, His omniscience, or His providence; a book also detracts God, that denies the efficiency of the Redemption—from our persistent inclination

[1] St. Thomas, *Summa*, II-II. 73. [2] Eccles. x. [3] Proverbs xx.

to sin, the multitude of those that are still lost, and the numberless sufferings and ailments of mankind.

B.V.M.—A book detracts the Blessed Virgin that denies any of her titles to our respect and reverence: her Immaculate Conception, her perpetual virginity, her stainless sanctity of life, her divine maternity, or her Assumption.

Sanctis.—A book should detract the saints, that would attribute their zeal to fanaticism, their miracles to the credulity of the bystanders, or their visions and prophesies to mental hallucinations.

Ecc. Cath.—A book should detract the Catholic Church, that would deny its divine institution, its sanctity, its unity, its catholicity, its apostolicity, or its infallibility.

Ejusque cultui.—The Latin word "cultus" would seem to have a twofold meaning.[1] In the first place it means an acknowledgment of another's superiority, and our reverence and subjection to him in consequence thereof; and this we should call "cultus religiosus." Secondly, it means an arrangement of a number of suitable signs to express this reverence and subjection; and this we should call "cultus liturgicus." The one is dependent on the other, for we will not allow our ardent feelings of reverence to lie buried in our bosom without striving to express them in one way or an other; and so, according to the canon of Vincentius Lirinensis,—"*lex credendi legem statuit supplicandi*,"—the "cultus liturgicus" has naturally grown from the "cultus religiosus."

It is clear that "cultus," in the present instance, is to be taken in the first sense rather than in the second; and that, accordingly, it means the reverence and obedience that we owe the Church. This is almost evident from the fact that the second meaning of the word is implied in the term immediately following "sacramentis," and nearly the whole

[1] Cf. *Summa*, I-II. 101, 2.

of Chapter VII. is devoted to it; and how can we suppose that the same thing is treated of twice over? Hence a book should detract the "cultus ecclesiae" that would strive to diminish our reverence and obedience to the Church—by placing it on a level with other societies, by denying its supernatural end and its divine institution; by asserting that its laws, its decrees, its traditions and definitions are founded on no authority; or by deriding it as the organ of Antichrist, the harlot of the seven hills, or the secret promoter of sin and crime.

Sacramentis.—A book should detract the sacraments, that would assert that they are remnants of superstition or imitations of magical rites; or that would deny their divine institution or their inherent power to produce grace.

Sedi Apos.—It is to be remarked that the Apostolic See is here used in its *abstract*, and not in its *concrete* sense. Hence a book may assail any one or any number of the popes individually without falling under the present Rule. A book, however, should detract the Apostolic See in its abstract sense that would deny its institution by Christ, its existence from the days of the Apostles, or its jurisdiction over other Churches; that would teach that the papal succession has been frequently entirely broken by false popes, or that the see of Rome has arrogated to itself universal jurisdiction either by bribery, forgery, or tyranny.

§ 2.

The second part of the Rule refers to those books that treat of the nature and extent of the Divine Inspiration of the Scriptures; and it proscribes, in the first place, all books that teach an erroneous notion of Inspiration. But how can we know when it is that the notion is erroneous, especially since there have been endless discussions on the nature of Inspiration amongst the most able and learned theologians?

In order to do so we must go aside from the noise and tumult of conflicting schools, and consult some infallible standard, and be guided in our judgment thereby. We find an infallible pronouncement on the nature and extent of Inspiration made in the Vatican Council, cap. ii. *De Revelatione*:—

> Qui quidem veteris et Novi Testamenti libri (scil.: libri recensiti a Conc. Trid. Sess. IV.; De canone S. Scripturae) integri cum omnibus suis partibus, prout in ejusdem concilii (i.e., Conc. Trid.) decreto recensentur, et in veteri vulgata editione habentur, pro sacris et canonicis suscipiendi sunt. Eos vero Ecclesia pro sacris et canonicis habet, non ideo quod *sola humana industria* concinnati sua deinde auctoritate sint approbati; nec ideo dumtaxat quod revelationem sine errore contineant, *sed propterea quod spiritu sancto inspirante conscripti Deum habent auctorem*, atque ut tales ipsi Ecclesiae, traditi sunt.

Let us analyze this declaration, and see what are the elements or *causes* of inspiration assigned by the Council. There are two efficient causes of Inspiration clearly indicated by the Council: God, the *primary cause* ("sed propterea quod Spiritu Sancto inspirante conscripti, Deum habent auctorem"); man, the *secondary cause* ("non ideo quod sola humana industria concinnati"). The relation existing between those two causes is also clearly expressed—a *positive influx* ("Spiritu Sancto inspirante"). Any definition of Inspiration which excludes any one of these three elements is erroneous, and falls under the present Rule. Hence all books that teach that God is not author of the Scriptures,—or that God is not equally author of the Old and New Testament,—or that the Scriptures were first written by man alone ("sola humana industria"), and were afterwards received and approved by the Church, are proscribed. All books that deny the positive influx on the part of God ("Spiritu Sancto inspirante"), and would assert that man, in writing the Scriptures was merely preserved from error, are also proscribed.

The second part of the present Rule refers also to those

books that *limit* too much the extent of divine Inspiration. In determining the boundaries of Inspiration we must likewise have recourse to an infallible standard. We have two declarations of the Church to guide us: (*a*) the Vatican Council, *De Revelatione*, Can. IV.: "*Si quis Sacrae Scripturae libros cum omnibus suis partibus prout illos Sancta Tridentina Synodus recensuit pro sacris et canonicis non susceperit aut eos divinitus esse inspiratos negaverit: A.S.*" (*b*) The Council of Trent, Sess. IV.: "*Si quis autem libros ipsos integros cum omnibus suis partibus, prout in Ecclesia Catholica legi consueverunt, et in veteri vulgata latina editione habentur pro sacris et canonicis non susceperit; et traditiones praedictas sciens et prudens contempserit: A.S.*" Those two declarations of the Church make known to us the boundaries of Inspiration, and by them we are to be led in pronouncing our judgment as to whether any book limits the extent of Divine Inspiration too much or not.

Accordingly, the entire books of Sacred Scripture are to be regarded as inspired in all their parts. Hence those books that teach that the Sacred Scriptures are inspired in some of their parts only, limit Inspiration too much; so likewise do those that would admit as inspired those parts only that have been cited and commended by our Divine Lord; and, finally, those that would confine Inspiration to the parts that contain dogmas or moral precepts.

Some writers wishing, it would appear, to bend somewhat the literal signification of the Vatican and Tridentine decrees on the extent of the Divine Inspiration of the Scriptures, make a rather subtile distinction on the term *partibus* used by the holy councils. They would divide the parts of Sacred Scripture into "dicta ex professo," and "obiter dicta." The parts which they would call "dicta ex professo," or equivalently, would deal with faith and morals—because, they say, according to the Council, the main drift of Sacred

Scripture is faith and morals. The "obiter dicta" they would appear to confine to purely secular matters—because, they say, it would appear unworthy of Divine Greatness, that the Almighty should in His revelation of Himself to us, undertake mere secular duties, and assume the office of a narrator, as such, of a historian, or a geographer, except so far as the secular matters bear directly on the revealed truth. Now the "obiter dicta," they would say, do not fall under the decrees I have cited, because, as the main purpose of the S. Councils was to safeguard faith and morals, they used the term *partibus* to designate those portions of the sacred writings that treat of such *ex professo*.

The practical question for us is, do writers who defend this distinction restrict too much the extent of the Divine Inspiration of the Scriptures? In answer, it might be said that it is really hard to see how they do not. Although it may easily be imagined how such a distinction of the "obiter dicta" and the "dicta ex professo," can hold, when there is question of a book of purely human composition; although we may imagine how such a distinction *could be possible* in other circumstances, even in the Bible, if it so pleased Almighty God; yet it is hard to see how such a distinction *can actually exist* in the face of the Vatican and Tridentine decrees. For the words of the councils extend:—(*a*) to all the canonical books ("qui quidem libri, i.e., libri recensiti a Conc. Trid. tamquam canonici"); (*b*) to each and all their parts ("integri, cum omnibus suis partibus."). Hence it would appear that, according to the literal force of the decrees, such a distinction cannot exist.

Still there have been illustrious writers, of revered and cherished memory, who have held that this distinction does exist; its existence is even freely discussed in theological schools of very high standing and left an open question with the tacit permission of the Church. "While the Church,

then, is silent, we should not dare to censure such views, but neither should we dare to hold them." [1]

Now, are books that defend such a distinction proscribed by the present Rule? It would appear that they are not; for the existence of such a distinction is a free and open question, and the legislator seems to have carefully abstained throughout the present legislation from pronouncing judgment on such questions.

There are a few other departments of the Biblical question where the Censor, in view of those definitions already cited, will be called on to use judgment and discretion—whether phenomena recorded in Sacred Scripture may be interpreted as having happened, not as recorded, but as explained by modern science; and whether the principle applied to natural phenomena may not also be applied to history and chronology. Such positions will be doubtlessly very near the border-line of orthodoxy; but, as pioneers and explorers are allowed to go far ahead of the main body, perhaps, even in such questions, he might be guided, by the principle enunciated above,—not to condemn while the Church is silent.[2]

Although the Sacred Scriptures are inspired throughout in all their parts, still there are many *features* of them for which we need not claim Inspiration. By way of illustration: if we take the Bible, we may read it either in its original Hebrew or Greek form, or read it in the version of St. Jerome. We may dwell especially on the ideas or the matter of the various parts, or read it in much the same way as Hamlet says he reads his book—words, words; or, finally, we may attend to the style of the writer—the plain, pastoral style of some of the minor prophets, the poetic style of David, or the vehement and sublime style of Isaias.

[1] *I.E. Record*, March, 1884, art. by Most Rev. Dr. Healy.

[2] For some of the views for which works would be proscribable under this clause see *Syllabus* of Pius X.

Now, no one will claim Inspiration for St. Jerome in making his translation, nor for the individual words, except where they have been necessary for the exact expression of some dogma or precept; nor for the style; but will attribute it to the particular training, character, or intention of the writer.

§ 3.

It is to be remarked that the ecclesiastical hierarchy, as well as the clerical and religious states, are here used in their *abstract*, and not in their *concrete* sense. Now, in interpreting this clause, it will be well to bear in mind that abstract things are in themselves something universal, and that they are particularised by the subjects in which they inhere. Thus whiteness is a something universal, and may be applied to all white things. It is particularised by its subject, as a white wall, a white horse, etc. Similarly the ecclesiastical hierarchy, the clerical and the religious states, are abstract things, and are, therefore, universal. They are particularised in the individuals. Accordingly twenty, thirty, or a hundred individuals will not be co-extensive with the states to which they belong. Strictly speaking, then, one should attack all the priests in the world before they could be said to attack the priesthood; and the same may be applied to the members of the hierarchy and of the religious state.

The abstract sense in which the ecclesiastical hierarchy, the religious state, and the priesthood are here used may be illustrated by a Decree of the Council of Trent, which contrasts the *state* of matrimony with that of virginity or celibacy:—

Leonine Rule.	Decretum Trid.
Prohibentur, quoque libri, qui data opera *ecclesiasticam hierarchiam* aut *statum clericalem* vel *religiosum* probris afficiunt.	Sess. XXIV., Can. 10. Si quis dixerit *statum conjugalem* antepónendum esse, *statui virginitatis vel caelibatus;* vel non esse melius et beatius manere in virginitate aut caelibatu quam jungi matrimonio A.S.

With regard to this decree of the Council of Trent, with which we may illustrate the present Rule, it is to be remarked that it is the two *states* of celibacy and wedlock that are contrasted, and not the *persons* who may happen to belong to them. The decree does not teach that a particular married person may not be more holy and virtuous than a particular priest or nun; or, again, that the majority of married persons may not be better than the members of a particular religious order; or, finally, that the married people, say, of the tenth century, were not more virtuous than the priests of that time. Accordingly, just as we may assert that a particular person bound in wedlock is more virtuous and holy than a particular religious bound by his vows, without incurring the censure of the Tridentine decree, so an author may assail any particular member of the hierarchy, or any particular priest or religious, without incurring the censure of the present Rule. In a word, the book that the present Rule would proscribe is an anti-religious book, not an anti-clerical one. It should be noted, however, that in popular usage the terms anti-clerical and anti-religious are terms very much abused. Many writings which are termed anti-clerical are really anti-religious, and writings which are merely anti-clerical are sometimes denounced as anti-religious. It is furthermore to be noted that to fall under the proscription of this clause a work need not be *ex professo* anti-religious; it suffices to be *data opera*, or designedly, intentionally, and with set purpose anti-religious.

Again, as we may assert that the majority of married persons are more holy than the members of a particular religious community, without incurring the censure of the Tridentine decree, so also it would appear that an author might assail the morals and the domestic discipline of any religious community without falling under the proscription

of the present Rule. But as we should fall under the censure of the Tridentine decree were we to hold, with the Lutherans, that the state of matrimony is better and preferable to that of virginity or celibacy, so also an author should incur the censure of the present Rule were he to assail the religious state, and maintain that it does not lead to spiritual perfection.

This question of the Religious State is one that has arisen from time to time in the history of the Church, and has occupied an important position in the literature of some periods. Quite recently it arose, in a most unexpected manner, and evoked a most important and remarkable controversy; and in past times, it attained, on one occasion, such proportions that the entire Papal Court at Avignon had the champions of both sides plead their case before them. On that occasion the representative and spokesman of the orthodox view was St. Thomas Aquinas; and although his discourse in presence of the Pope and the College of Cardinals is not extant, we may take it, that it was what he has summarised and arranged in scientific order in the *Summa*.[1]

But besides this, as far as the Religious State is concerned, we have an authentic interpretation of the clause under discussion in an encyclical letter of the legislator himself.[2] Treating of the religious state in this letter, the Pontiff refers to three points; first, to the vows made at religious profession; and on this head he teaches us that we are not to despise or undervalue the religious state on account of the vows made at the religious profession, under the belief that they are not in keeping with the spirit of the age, or that they restrict too much human liberty; or that they are suited rather to weak-minded persons than to persons of strong character; or, finally, that, instead of leading us to Christian

[1] II.-II. 180-189.
[2] Letter of His Holiness to Card. Gibbons, 22nd January, 1899.

perfection, they are rather obstacles in the way that retard and impede us. If we were to hold any such opinion, we should have the usage and the doctrine of the Church against us. Second, the Pontiff refers to the two great branches of the religious state—the contemplative life and the active life; and on this head he teaches us that we are not to extol the active life beyond the contemplative life, but that we are to give them both praise alike. Third, the Pontiff refers to those religious communities that do not bind their members with any special vows; and with regard to those, he teaches us that they are not new in the Church, and that they are not to be found fault with. We are to be careful, however, not to extol them beyond the religious orders; on the contrary, since the desire of self-gratification is greater nowadays than ever, those who have left everything and followed Christ deserve the greater respect and reward.

Now, in interpretation of this portion of the present Rule, I should bring into relief the central ideas expressed in the Pontiff's remarks. The religious state and the religious orders have taken their name from the virtue of religion. We may remark that when any quality is common to a great many individuals, we attribute it antonomastically to that one to whom it belongs *par excellence;* and so, by way of illustration, although the virtue of fortitude is exercised in encountering any difficulty or danger whatsoever, yet we attribute it antonomastically to him who faces death, because that is the most trying. And, in like manner, although the virtue of temperance is exercised in keeping within just bounds all our desires, yet we invariably attribute it, by the same figure of speech, to moderation in drink, because that is the most difficult so to constrain. Now, applying this: although we are all obliged to be religious, or to be bound in mind and heart to God, yet to those who profess to be so *par excellence* we attribute the term religious and

religious orders. Those, then, who belong to religious orders are obliged, as St. Thomas[1] says, in accordance with their profession, at least, to *tend* to religious perfection.

Now, what is necessary in order to arrive at religious perfection? Since religious perfection consists in perfect union with God, we must sever the bonds that might keep us from Him; for no man can serve two masters. The first of those bonds is the love of wordly goods; and this is severed by the vow of poverty. The second is the desire of carnal pleasure; and this is severed by the vow of chastity. And the third is the desire of self-will; and this is severed by the vow of obedience. There cannot be the perfect spirit of religion without the spirit of poverty; for Christ said:[2] *Si vis perfectus esse, vade, vende omnia quae habes, et da pauperibus, et veni sequere me*—"If thou will be perfect, go sell what thou hast, and give to the poor: and come follow Me." There cannot be religious perfection together with carnal pleasure; for St. Paul says: *Mundemus nos ab omni inquinamento carnis et spiritus, perficientes sanctificationem nostram in timore Dei*—"Let us cleanse ourselves from all defilement of the flesh and of the spirit, perfecting sanctification in the fear of God;"[3] and, again: *Mulier innupta et virgo cogitat quae Domini sunt ut sit sancta spiritu et corpore*—"And the unmarried woman and the virgin thinketh on the things of the Lord: that she may be holy both in body and in spirit."[4] Finally, there cannot exist the perfect spirit of religion without obedience; for Christ, who said, *Discite a me quia mitis sum et humilis corde*—"Learn of Me, because I am meek and humble of heart,"[5] is said by St. Paul to have been *obedient* unto death: *Factus est obediens usque ad mortem*—"He became obedient unto death."[6]

Those three vows are, therefore, the groundwork of the

[1] II.-II. 186, 2.
[2] Matt. xix. 21.
[3] 2 Cor. vii. 1.
[4] 1 Cor. vii. 34.
[5] Matt. xi. 29.
[6] Phil. ii. 8.

religious state.[1] They do not impede us in our advance in Christian perfection; but, on the contrary, they are the very vehicles that bear us onward. They cannot be unsuited to the spirit of any age if we really wish to be imitators of Christ; for "*Magister et exemplar sanctitatis omnis est Christus . . . et haud mutatur Christus progredientibus saeculis, sed idem heri et hodie et in saecula.*"[2] Nor is it true that those vows restrict our free-will, or are better suited for weak-minded persons than for those of strong character; for, as St. Thomas says: "Free-will is related to the faculty of the will, as the process of reasoning is related to the power of understanding." In other words, as the process of reasoning is nothing else than the *use* of the light of understanding, so free-will is nothing else than the *use* of the faculty of the will. Now, just as faith sheds an additional light on the pre-existing light of understanding, and thus enables us to reason better, so divine grace strengthens the faculty of the will, and enables us to make a better *choice*, in which free-will precisely consists; so that, as the Pontiff says, "*qui ita se votorum religione obstringunt, adeo sunt a libertatis jactura remoti, ut multo pleniore ac nobiliore fruantur, ea nempe qua Christus nos liberavit.*"

Any book, therefore, that would assail any of those three vows would be erroneous in theology, and directly opposed to the clause of the present Rule under discussion.

As regards the distinction between the active and the contemplative orders: the religious state has been instituted to lead men to religious perfection, which consists in perfect charity. Charity may be exercised in two ways: directly towards God, and mediately through our neighbour. The charity that we exercise towards our neighbour is the very same in nature as that which we exercise directly towards

[1] Cf. St. Thomas, II.-II. 186, 7.
[2] Letter of His Holiness to Cardinal Gibbons.

God, just as, to make use of the simile of St. Thomas,[1] it is the very same sense of sight that we use when looking at the sun as when looking at the bodies that shine with its reflected light. The contemplative orders exercise their charity directly towards God; the active orders through the medium of their neighbour.

Both of those branches of the religious state have the same end—*union with God;* and they have the same motive —the motive of *charity*. We might regard them, then, as two tendrils hanging from the same stem of charity, or, again, as two fountains fed from the same source of charity, and springing unto the same life eternal.

Authors would require to be very careful in instituting comparisons between the different branches of the religious state. If they would make a comparison between them, they should follow on the general lines laid down by the Angelical.[2]

However, we are sometimes strongly tempted to place the active life on absolutely a higher level than the contemplative life. The utilitarian spirit of the age, the magnificent charitable institutions raised through the efforts of the orders of the active life, and the immense spread of the Catholic Church owing to their preaching and their instruction, may, perchance, unbalance our judgment, and lead us to such a conclusion. But this would be a very serious error, and censurable under the present Rule.

Lastly, an author should be careful when dealing with those religious associations that bind their members with no special vows. Such institutions are not new in the Church, and they are not to be depreciated: but, at the same time, they are not to be put on the same level with the religious orders that bind their members with solemn vows; nor are

[1] II.-II., 25, 1. [2] II.-II. 182, 1; 188, 6.

their members to be compared with those who have left everything, and followed Christ

Summing up, then, those remarks on the clause under discussion: authors are carefully to abstain from assailing in the *abstract* the ecclesiastical hierarchy, the priesthood, or the religious state; they are carefully to abstain from assailing the three vows of poverty, chastity, and obedience, which are the soul and the foundation of the religious life; they are carefully to abstain from unduly extolling the orders of the active life beyond those of the contemplative life; and, finally, in instituting comparisons between the different branches of the religious state, it would be well to follow on the general lines laid down by the Angelic Doctor.

Regula XII.

Nefas esto libros edere, legere aut retinere, in quibus sortilegia, divinatio, magia, evocatio spirituum, aliaeque hujus generis superstitiones docentur, vel commendantur.

The present Rule, though short and simple in form, still covers a very wide range of subjects, and presents some practical difficulties. By it we are forbidden to publish, read, or retain books which teach or commend either fortune-telling, divination, magic, spiritism, or any other similar superstitious practice. The Rule is very like, both in substance and form, the ninth Rule of the Council of Trent, "*Pariter vetantur omnes libri et Scripta Geomantiae, Hydromantiae, Pyromantiae. Oneiromantiae, Chyromantiae, Necromantiae, Astrologiae, Judiciariae, et omnia alia in quibus continentur sortilegia Veneficia, ac Auspicia; et contra haec legentes vel habentes procedi potest tamquam suspectos de haeresi.*"

We should note the points of difference between the two Rules: that there are several species of superstition explicitly stated in the Tridentine Rule that are merely implied in the

Leonine Rule; and that Spiritism is explicitly mentioned in the Leonine Rule, whereas there is no mention made of it in the Tridentine Rule. Yet the extent of both Rules is the same: for under Necromancy, in the Tridentine Rule, are included Spiritism and Hypnotism (so far as Hypnotism may be superstitious); and Geomantia, Hydromantia, &c., are all implied in the words "*aliaeque hujus generis superstitiones.*"

There are so many different kinds of superstition included under the present Rule that they should be liable to render it somewhat unwieldly if we could not reduce them to a logical and scientific order. To aid the memory, therefore, and render the application of the Rule more easy, I here purpose to give a division of the various kinds of superstition that are mentioned by the Tridentine Rule, and implied in the present Rule, and to give a short explanation of each.

- Divinatio.
  - I. When the devil is expressly invoked to make known the future, we have:
    - (1) Praestigia (Prae-stringere).
    - (2) Somnia.
    - (3) Necromantia (*νεκρον-μαντεια*).
    - (4) Pythones (Pythia).
    - (5) Geomantia (*γη-μαντεια*)
    - (6) Hydromantia (*υδωρ*).
    - (7) Aëromantia.
    - (8) Pyromantia (*πυρ*).
    - (9) Aruspicium (Hira-spicere).
  - II. Without the express invocation of the devil attempts may be made to find out the future, in two ways:
    - (*a*) From purely accidental occurences, or from certain personal dispositions; and under this head we have:
      - (1) Astrologia judiciaria.
      - (2) Auguria (avis-garritus).
      - (3) Auspicium (avis-spicere).
      - (4) Omen.
      - (5) Chyromantia.
    - (*b*) From certain actions done intentionally indeed by persons, but having no connection with future events; and of this kind we have:
      - (1) Sortilegium.

Divination seems to be a generic term, used to designate all kinds of superstitious practices by which attempts are made to discover the future. This practice is so called because those who indulge in it arrogate to themselves one of the prerogatives of God.

Now, to explain the members of the division, one by one. Persons may strive to make out the future through the agency of the devil, or without his express aid; and, accordingly, we have two large classes of superstition, as specified—where there is express invocation of the devil, and where there is not.

When the devil is expressly invoked, persons make use of juggling, charms, or illusions; and this is called in Latin *Praestigia*, because those present are wont to string and strain their senses. Sometimes attempts are made to know the future from dreams, with the express invocation of the devil; and this is called "Divinatio Somniorum." Sometimes the devil is invoked, and appears under the form of the dead; and this is called "Necromantia." Sometimes the devil is invoked, and speaks through living persons; and this is called "Divinatio per Pythones," from Pythia, an old Greek name for Delphi, the seat of the great temple of Apollo. Sometimes attempts are made, with the express invocation of the devil, to find out the future from certain appearances in inanimate nature; if those appearances take place in the clay, the practice is called "Geomantia;" if in the water, it is called "Hydromantia;" if in the air, "Aëromantia; if in fire, it is called "Pyromantia;" and if in the entrails of dead animals, "Aruspicium."

Without expressly invoking the devil, persons may make use of the most accidental occurrences and the most trifling personal dispositions to find out what is in store for them in the future. If they should endeavour to forecast the future of a child from the moon or planet under which it was born,

their practice should be called "Astrologia." If they attempt to foretell the future from the crowing of fowl or the croaking of birds of flight, their practice should be called "Auguria." If they should try to foretell the future from words accidentally dropped, or from actions performed without forethought, their prognostications should be called "Omens." Pretence to know a person's future career from the lines on his palms is called "Chyromancy."

Lastly, without expressly inviting the devil, a person may attempt to foretell the future from actions intentionally and seriously performed by himself or by others, but which have no connection whatsoever with future events, and this is called "Sortilegium." This is usually done by the casting of dice, cutting of cards, and the melting of lead or alum.[1]

Now, the present Rule proscribes all those practices in the exact measure that they are superstitious. How, therefore, are we to know when any one of them is in a particular case superstitious? I do not hope to be able to give a universal index to discover this; for just as a ring that we throw into a box can scarcely get into every corner, so any general rule that might be given could scarcely cover every particular case, clothed in all its accompanying circumstances, and judge how far an effect is sought which is not contained in the means employed.

However, we may remark that the knowledge of future events may be known in two ways: first, they may be known in themselves—as God foresees all possible contingencies; second, in their causes—as we know that a vessel sailing westward will not leave the surface of the earth and sail into the clouds. Now: some causes produce their effects of necessity; and such effects we may know long beforehand; as astronomers may predict an eclipse of the

[1] St. Thomas, II.-II. 95, 3.

sun, or an electrician an earthquake. Other causes produce their effects, not of necessity, but generally, and in the majority of cases; and of such events we may form conjectures with more or less certainty, as astronomers may foretell rain, drought, frost, or snow, or as doctors may forecast the future death or recovery of a patient. Lastly, there are some causes which are equally inclined to two sides, which may or may not produce a given effect; this is particularly true of the human will. Anyone, therefore, that pretends to foretell future events of this last kind arrogates to himself one of the divine prerogatives, and is guilty of superstition; and a book of such tendency would be proscribed by this part of the Rule.

The present Rule also refers to Spiritism and its kindred art, Hypnotism. These arts are proscribed also in so far as they are superstitious. But since there is diversity of opinion amongst some of the very highest authorities as to how far the phenomena of, at least, hypnotism are natural, and how far they demand a preternatural cause, there may be some difficulty in applying this portion of the Rule to particular cases. I purpose, therefore, to diminish this difficulty. We will first consider Hypnotism, and then Spiritism.

When a traveller wishes to make his way through some wild and tangled region, he will first be careful to examine every feature of the land around him; he will then take accurately his bearings, and will, finally, have recourse to his map or chart to steer his course. We must act in a somewhat similar way when dealing with Hypnotism; we must first examine and classify its various phenomena; we must then endeavour to find out their causes; and, finally, we must have recourse to the Rule of the Index for advice and council before we pronounce our judgment.

Hypnotism, Mesmerism, and Animal-Magnetism seem to

be almost synonymous terms. The art is called Hypnotism, from an effect produced—sleep ὕπνος; it is called Mesmerism from its author; and it is called Animal-Magnetism from a certain theoretical explanation of its effects.

What are the effects of Hypnotism? The effects of Hypnotism may be reduced to four classes—1°. *Sleep.* This magnetic sleep, however, is far different from natural sleep. For to produce magnetic sleep the will of the hypnotist is enough, whereas to produce natural sleep the will of another is of no avail. They differ also in their intensity; for, while we may easily arouse a person from a natural sleep, no power, not even the application of fire, will arouse a person from magnetic sleep, unless the hypnotist so desires. 2°. *Somnambulism.* We have also natural somnambulism; but between one and the other there is a very great difference. For during magnetic somnambulism the senses seem to be transposed, so that the somnambulist hears with his stomach, tastes with his finger-tips, and reads behind his back. There is, moreover, a perfect sympathy between the somnambulist and the hypnotist: they suffer the same pains, they experience the same sensation, so that they seem to be informed with one and the same soul. Lastly, there is almost an irresistible attraction between them: so strong that the somnambulist has been known to be raised from the ground. 3°. The third stage is *Catalepsis.* In this stage the limbs become quite rigid and devoid of sensibility. What is most remarkable in this class of phenomena is, that the degree of catalepsis depends entirely on the will of the hypnotist: if he wishes that the tongue alone be paralyzed, it becomes so; if he wishes that one leg or one arm alone be paralyzed, it is done. 4°. The last and most remarkable kind of phenomena are those classed under *Claire-Voyance.* When this stage is reached, a person may read in a language quite unknown to him, may

diagnose diseases, explain their causes, prescribe remedies, and use throughout the most correct and apt phraseology; he can predict the future illness of even an absent person; can foretell future events; is frequently rapt in ecstasy, and while in this state will oftentimes make the most marvellous revelations.

What is the cause of those effects? This is the most important question that can be proposed on the subject of Hypnotism, and the answer to it will in great measure determine our application of the present Rule of the Index. Those who give answer to it, are ranged on two different and opposing sides. On one side are ranged nearly the whole medical faculty; on the other side are ranged all the theological schools. Those on either side are ranked in double file: amongst theologians there are two opinions, and amongst the medical faculty there are also two opinions. Let us review them singly, and examine their relative merits.

The first medical opinion would attribute the effects of Hypnotism, one and all, to some innate power of will over matter. This opinion is inadmissable.

The second medical opinion would attribute the effects of Hypnotism partly to the innate power of the human will, and partly to the influence of a certain subtile magnetic fluid. This fluid, they say, is not pure matter, nor yet pure spirit, but is like a link, or a golden bridge between spirit and matter, across which the soul can operate on material things. This theory has many points against it.

We should, therefore, admit neither of the medical opinions to interfere with the interpretation or the practical application of the present Rule.

Theologians, as the medical men, stand in double file on the present question. Those in the front rank would make a distinction; they would attribute all phenomena belonging

to the first two classes to a natural cause; for the effects belonging to the third and fourth class they would demand a preternatural cause; and this opinion is *probable*. The theologians who hold this opinion base it chiefly on the fact that the phenomena of the first two classes are sometimes produced by natural means; and so, in the case of Animal-Magnetism, may be due to natural causes. Thus: sleep may be artificially produced by administering certain medicines, or by wearying out any particular sense; and somnambulism is often found to be a natural disease.

The theologians in the second rank would make no distinction, but would attribute all the effects of Hypnotism to a preternatural cause; and this would appear to be the *best* opinion.

Although the Roman Congregations have carefully abstained from pronouncing any judgment on the relative merits of the four opinions here stated, yet it would appear from their decisions on particular cases[1] that they have a positive inclination for this last opinion. Both of these opinions are, however, probable; they are, accordingly, workable. Either one or the other of them may be applied to the present Rule. According to the first opinion, only books teaching and commending experiments in Hypnotism of the iii. and iv. class will be proscribed. According to the second opinion, books teaching and commending the use of Hypnotism, under *any* form, either for surgery or amusement, are proscribed.

A word on Spiritism will suffice. Books teaching and commending the use of Spiritism are proscribed by the present Rule. This is manifest from the fact that all are unanimous in pronouncing it superstitious; and, moreover, there is explicit mention of it in the present Rule—*evocatio spirituum*.

[1] Cf. Ballerini, *Opus Magnum*, vol. ii., page 258.

REGULA XIII.

Libri aut Scripta, quae narrant novas apparitiones, revelationes, visiones, prophetias, miracula, vel quae novas inducunt devotiones, etiam sub praetextu quod sunt privatae, si publicentur absque legitima superiorum ecclesiae licentia, proscribuntur.

The 13th Rule treats of two classes of books—those that narrate new apparitions, revelations, visions, prophecies, and miracles; and those that introduce new devotions. If we examine the form of the Rule, we shall perceive that it is an hypothetical proposition; the condition is "*si publicentur absque legitima superiorum ecclesiae licentia;*" the *conditionatum* is the whole preceding clause. The Rule accordingly states that all books and writings that narrate new apparitions, revelations, visions, prophecies, or miracles, or that introduce new devotions, even under the pretext that they are private, are proscribed—unless they have been published with the permission of competent ecclesiastical authority.

Regarding the interpretation of some of the terms of the Rule, are we to include journals and periodicals under the extension of the terms "libri et scripta"? *Il Monitore Ecclesiastico* answers affirmatively: "*Tutti i libri adunque e qualsiavoglia scrittura, concernenti sifatte cose straordinarie che si publichino senza la debita approbazione dell Autorita ecclesiastica, devono aversi per proibiti.*"[1] P. Peries, however, would seem to exclude occasional narratives such as are given in journals and periodicals[2]: "*Ce simple et bref récit d'actualité d'un fait divers, ne doit pas etre confondu avec le parti pris de lancer 'ex professo,' et de soutenir dans controverses prolongées de prétendus faits miraculeux.*"[3] This would seem to be the better opinion: for he who would extend the words "libri

[1] Page 39. [2] Page 98.
[3] P. Pennacchi holds the same opinion, p. 106.

et scripta" to journals and periodicals should represent the Pontiff as having passed an *impractical law;* for how could the Rule in such a sense be reduced to practice since the Press in many places is in open hostility to the Church? Moreover, to extend the terms "libri et scripta" to journals and periodicals would be to renew the abuse the bishops of Italy, Germany, and France complained of, regarding certain clauses of the Tridentine Rules; and it is entirely unlikely that the Pontiff, having before him the representation of those prelates, together with the report of the Vatican Commission, would renew in any way the laws that were then complained of. Then, he who would extend the words "libri et scripta" to journals and periodicals, would, perhaps, represent the Pontiff as having made a *useless* law. The end the Pontiff had in view in framing the present Rule was to keep the minds of the faithful from being laid astray by false signs and their faith weakened by miraculous stories, that might afterwards be easily shown to be false. Now, how could the faithful know that any individual issue of a journal contained such stories, till they had read it, and when they had once read it, how could the end of the present Rule be attained? Finally, when the legislator wishes to designate newspapers of any kind, the terms he uses are *diaria* and *folia;* and when he wishes to designate periodicals he uses *libelli periodici* (Rule 21); and, as we are to interpret the present legislation strictly throughout, we are not to suppose that the terms imply what is elsewhere so implicitly expressed. The terms, however, include all kinds of books and booklets, pamphlets, and separate and individual publications.

Novas.—A doubt arises regarding the interpretation of the term "novas." There may be question of some *fresh* miracles of a holy person whose beatification or canonization is already before the Congregation of Rites, or there may be

question of *new* miracles that have no connexion with the cause of any of the servants of God. To which are we to refer the term "novas"? P. Pennacchi would refer the term to miracles, apparitions, &c., that have no connexion with the cause of any of the servants of God; and his opinion is supported by the following reasons [1]:—

We are not to suppose that Leo XIII. abrogated any previous legislation, or interfered with any constitution of his predecessors, except those that he has made special mention of in the *Officiorum ac Munerum*. Now, there is no reference to the legislation of Urban VIII. on the cause of the servants of God; therefore, "novas" cannot refer to them.

There is in fact positive proof in the present Rules of the Index that Leo XIII. has in no way interfered with the legislation of Urban VIII.; for in the 32nd Rule we read: "*Quae ad causas Beatificationum et Canonizationum servorum Dei utcumque pertinent, absque beneplacito Congregationis Sacris Ritibus tuendis praepositae, publicari nequeunt.*" Everything, therefore, that has reference to the cause of the servants of God appertains to the Congregation of Rites; hence the present Rule, which is in the administration of the Congregation of the Index, cannot refer to the additional miracles of any person whose cause has been already before the Congregation of Rites.

Legitima superiorum Ecclesiae licentia.—Who are the ecclesiastical authorities that are to grant the permission? The Council of Trent answers this question for us. In the twenty-fifth session we read: "*Nulla etiam admittenda esse*

[1] It may be well to state that the Congregation of Rites has the management of everything concerning the beatification and canonization of saints. It is this Congregation that collects and examines the proofs of the heroic sanctity of any individual whose cause is moved. The Congregation itself is regulated by special legislation made by Urban VIII.

nova miracula, nec novas reliquias recipiendas, nisi eodem recognoscente et approbante episcopo; qui simul atque de iis aliquid compertum habuerit, adhibitis in consilium theologis, et aliis piis viris, ea faciat, quae veritati et pietati consentanea judicaverit." Is it to the bishop in whose diocese the facts have occurred, or in whose diocese the author intends to publish the book, that application is to be made for the permission? We shall see from Rule 35 of the present Constitution that it is to the bishop in whose diocese he intends to publish the book.

Novas . . . devotiones.—The second part of the present Rule treats of new devotions, and pronounces the same proscription on books that publish them, as on those that narrate new miracles, prophecies, or revelations. This part of the Rule is not quite new, for Pius IX. prescribed that "all writers who expend their wit and talents in treating of subjects that breath an air of novelty, or who strive, by means of the Press, to promote new devotions under the semblance of piety, ought to desist; for they are to be mindful of the danger that underlies such a practice, of drawing the faithful into error, even on the dogmas of faith, and of supplying an opportunity to the enemies of religion to disparage the purity of Catholic faith and the exercise of genuine piety."

Sometimes we find prayers printed on cards or leaflets, freely circulated. Hence the question presents itself: would prayers, either original or taken from a book, printed on leaflets, be proscribed by this Rule, if not approved? In reply, I should say that they would, if they purpose to introduce new devotions, even should they be private ones; for the term *scripta* covers all kinds of individual publications. The necessity of such a prescription may be judged from the number of false devotions that have crept into certain localities, as well as from the great number of

devotional works that the Sacred Congregation of the Index has had from time to time to proscribe and place on the Index.

It would be well for authors of devotional works to keep before the minds of their readers that Almighty God is the end of all true devotion, and that Christ is our Mediator. For Christ is the Vine-stock, and we are the branches;[1] or, as St. Paul puts it, we are the members of the body of Christ: "*Nescitis quoniam corpora vestra membra sunt Christi.*"[2]

Charity is the heart that gives unity, and life and warmth to this spiritual body. As the heart sends blood through every portion of the human body, and secures thereby perfect unity in all its limbs, so the love of God, diffused by the Holy Ghost through every true Christian, secures perfect unity among the spiritual members of Christ. As diseases become more grievous and dangerous in proportion as they affect the heart, which is the seat and fount of life; so sins become more heinous and enormous in proportion as they are opposed to charity, and tend to separate us from God.[3] And so, as the stoppage of the heart is the culminating point of all bodily diseases, so formal hatred of God is the last stage of sin. And, finally, as every limb of the human body that is not nourished and refreshed with warm and healthy blood from the heart soon sickens and dries up; so any devotion that is not warmed and refreshed with the true love of God, instead of being profitable becomes impious.

Hence our first and principal devotion is due to the Most Holy Trinity; then to Christ as our Redeemer; then to the Blessed Virgin Mary as Mother of God; then to the holy Apostles, and all the angels and saints.

[1] John xv. 1. [2] 1 Cor. vi. 15. [3] Cf. St. Thomas, I.-II. 73, 3.

REGULA XIV.

Prohibentur pariter libri, qui duellum, suicidium, vel divortium, licita statuunt, qui de sectis massonicis vel aliis ejusdem generis societatibus agunt, easque utiles et non perniciosas Ecclesiae et civili societati esse contendunt, et qui errores ab Apostolica Sede proscriptos tuentur.

The present Rule proscribes three classes of books :—those that endeavour to show that duelling, suicide, and divorce are lawful; those that treat of Freemasonry or other similar societies, and endeavour to show that they are useful, and not injurious to the Church and civil society; those that defend the errors proscribed by the Apostolic See. I will treat of those three classes of books in three distinct paragraphs.

§ 1.

We must understand in what sense duelling, suicide, and divorce fall under the present Rule. Generally speaking, they fall under the present Rule in so far as they are *unlawful*. But since this general reply is rather indefinite, we must examine them individually.

Duellum.—A duel is a combat between two, fought with deadly weapons by agreement as to time and place. A duel will be *public*, if fought under the sanction of public authority; *private*, if fought from purely personal motives. It will be a *solemn* duel, if there are seconds present; it will be a *simple* duel, if there is no one by.

Is duelling lawful? A duel fought under the direction of public authority may be sometimes lawful, especially when it may be the cause of bringing a war to a close. Thus in the life[1] of St. Winceslaus, Prince of Bohemia, we read that on one occasion he engaged to fight, in single strife, Radislaus, leader of the Curimenses, in order to spare the

[1] Cf. *Brev. Romanum.*

lives of his own soldiers. That this was lawful, God plainly showed, for an angel was seen to present to him his arms, and to forbid his opponent to strike. It may be maintained that a public duel is also lawful when required to sustain the reputation of an army in the eyes of the enemy, or to rouse the drooping courage of the soldiers; and so we find David going forth to fight Goliath, not only to end the strife with the Philistines, but also to reanimate the drooping spirits of the Israelites—since Saul and all the men of Israel wondered at the challenge of the Philistine, and feared much. If, however, duelling is ordered by public authority to gratify revenge or to amuse the spectators—as is recorded to have been done by Hannibal to some Roman youths taken at the battle of Cannae, or as was afterwards done in the Roman Colosseum—it bespeaks a savage and ferocious nature, and is contrary to every law, natural and divine.

Private duelling, however, is always unlawful. It is against the natural law: because God gave to no individual dominion over his own or another's life; and it is against the ecclesiastical law, as many decrees of the Councils and many encyclicals of the Supreme Pontiffs demonstrate.

Suicidium.—He who commits suicide sins on many sides. He sins against God: life and death belong to God; "*non occides.*" "*Ego occidam et ego vivere faciam,*" saith the Lord. He sins against himself: for God, who made all things, has infused into them some of His own love, by which they are to cherish themselves, and strive to keep themselves alive; when a person kills himself he does not act according to this love; but revolts against God, turns love to hatred, and deprives himself of a gift that God had given him. Hence, even pagan Cicero says, that no pious man will dare to leave this mortal life without the command of Him who gave it, lest he should appear to have failed to fulfil the duty imposed on him by God. Lastly, he sins against his

country: for he is a member of the community, as a leg or an arm is a member of the human body; and so, when he kills himself, he lops a member from the State, and thus inflicts on it an injury.[1]

We can give no other explanation of the action of St. Appolonia,[2] virgin and martyr of Alexandria, in rushing from the hands of her executioners into the fire prepared for her, than that which St. Augustine gives of the action of Sampson in killing himself with the assembled Philistines: "*nec Sampson aliter excusatur quod seipsum cum hostibus ruina domus oppressit, nisi quod Spiritus Sanctus hoc jusserat, qui per illum miracula faciebat.*"[3] Poets may praise the action of Lucretia or of Cato, but their reasons are purely sentimental.

Divortium.—The present Rule does not speak of that separation of man and wife which occasionally takes place with the approbation of the Church. With regard to such a separation the Council of Trent has declared (Sess. 24, can. 8): "*Si quis dixerit ecclesiam errare, cum ob multas causas separationem inter conjuges quoad torum seu quoad habitationem, ad certum incertumque tempus fieri posse discernit, A.S.*" The present Rule speaks of perfect divorce where there is not only a separation from house and home, but an attempt to break the sacramental bond of marriage. There is no need here to dwell on how such an act violates the rights of the children that may have been begotten, who claim with justice sustenance and education; how it violates the rights of the wife, who claims with justice shelter and protection as long as she lives; nor how it is contrary to that affection, that should have led man and woman to unite in marriage, which, according to the love depicted in the spouse of the Canticles, ought to have been founded on some

[1] Cf. S. Thomas, II.-II. 64, 5. [2] *Brev. Rom.* [3] *De Civ. Dei*, lib. i., cap. 21.

permanent and lasting quality, and not on one fleeting and transient. Nor is there need to show how such a separation is contrary to the divine law as dispensed by Christ, who restored the marriage contract to its primary form—one in number and life-long in duration—and raised it to the dignity of a sacrament.

Perfect divorce is contrary to ecclesiastical law. The Council of Trent, Sess. 24, thus speaks of the bond of marriage: "*Hoc autem vinculo duos tantummodo copulari et conjungi, Christus Dominus apertius docuit, cum postrema illa verba, tamquam a Deo prolata, referens, dixit; Itaque jam non sunt duo, sed una caro; statimque ejusdem nexus firmitatem ab Adamo tanto ante pronuntiatam his verbis confirmavit: quod ergo Deus conjuxit homo non separet.*"

Leo XIII., in his Constitution *Arcanum divinae Sapientiae Consilium*, thus laments the sad results of civil divorces:—

They render the marriage contract infirm; they diminish the good-will between man and wife; they offer ruinous incitements to conjugal infidelity; they prevent the offspring from being properly reared and educated; they sow the seeds of discord amongst families; and they lower the dignity of woman, who runs the risk of being cast aside when she has satisfied the lust of man. Now, since there is nothing that leads to the extinction of families, and to the exhaustion of kingdoms, so much as corruption of morals, it is quite easy to see that these divorces—the natural outcome of moral corruption—are highly injurious to the prosperity of both families and states; for experience teaches us that, while they are themselves the results of corruption, they are the cause of still further corruption. Now, all those evils will appear the greater if we consider that if once the permission of divorces be granted, there is nothing to confine them within fixed and determined boundaries.

§ 2.

The second part of the Rule proscribes all books that endeavour to prove that Freemasonry and all other societies of a kindred nature are useful, and not injurious either to Church or State.

From many sources do we know that Freemasonry is hostile both to Church and State—from the end which it

proposes to itself, from the confessions and revelations of many who were its leaders, from the books and the laws that the society has published, from the edicts with which many kings have endeavoured to repress it, and, finally, from the different Constitutions published by the Roman Pontiffs, in which the society has been condemned.

Now, when is a book treating of duelling, suicide, or divorce, Freemasonry, and similar societies, proscribed by the present Rule? In order that a book treating of those subjects be proscribed by the present Rule, three conditions must be fulfilled :—1°. It must not only treat of those subjects, but endeavour to prove them lawful. 2°. It must endeavour to prove them lawful in the *sense*, and to the *extent* that they are condemned by the Church. 3°. It must do so *ex professo*.

About this third condition, there is a controversy amongst commentators on the Rules of the Index. *Il Monitore Ecclesiastico* explicitly states that even were a book to treat of those subjcts in a passing way ("obiter") and endeavour to prove them lawful, it should be proscribed by the present Rule.[1] "*Si noti :* 1°. *Che qui non si fa differenza fra autori cattolici ed acattolici.* 2°. *Che non si distingue fra libri che trattono delle dette cose ex professo e quelli che no. In tutte queste cose non vale percio la regola "odia restringenda," ma vale l'altra "quod lex non distinguit, neque nos distinguere debemus."* P. Pennacchi,[2] however, holds, that unless the book does so *ex professo*, it is not proscribed by the present Rule; and this seems to be the better opinion.

The words themselves of the Rule seem to imply as much. The words *Licita statuunt, agunt, easque utiles esse contendunt, tuentur*, seem all to imply more than a passing reference. Examining the words in order: what would be required in order to treat (*agunt*) of either duelling, suicide,

[1] Page 42. [2] Page 111.

divorce, or Masonic societies, or the errors proscribed by the Apostolic See? What would be required to prove them lawful (*licita statuunt*)? What would be required to prove them useful (*easque utiles*)? And, lastly, what would be required to defend them against objections (*tuentur*)? There would, first, be required an explanation of the subject; then a division of the various kinds of divorce, duel, or Masonic societies; then a series of proofs; and, lastly, a refutation of the arguments against them. Now, to do this, no passing reference would suffice, but almost a regular treatise should be written, or, at least, an amount equal to a chapter. Hence, the wording of the Rule would seem to imply an *ex professo* treatment. It would, moreover, appear from a scrutiny of the present Rules that the legislator has not wished to proscribe *any* book for treating merely *obiter* of a forbidden subject. In examining the character of the Rules of the present Constitution, it would be well to distinguish the *matter* of which the book treats, from the *manner* in which it treats of it.

Now, in proportion as the *matter* of the book would be important or infectious, so the legislator should naturally be more exacting regarding the *manner* of treatment. We should, for instance, be more careful to keep fire away from tow than from coal or timber. Bearing this in mind, let us compare the present Rule with the 4th and 9th Rules. In Rule 4 we read: "Libri eorumdem auctorum *qui ex professo de religione non tractant, sed obiter tantum fidei veritates attingunt*, jure ecclesiastico prohibiti non habeantur." Now, the *matter* of Rule 4 is of more importance than the *matter* of the present Rule; because Rule 4 treats of the very foundations of our religion, whereas the present Rule treats only of a part of the superstructure; hence, the legislator could not well have been more exacting in the present Rule as regards the *manner* of the book, than he has been in Rule 4; but in Rule 4 he does not proscribe, except in

case of an *ex professo* treatment; therefore, he has not wished to proscribe in the present Rule, except in cases of *ex professo* treatment.

Let us compare the present Rule with Rule 9. In Rule 9 we read: "Libri qui res lascivas seu obscenas *ex professo tractant, narrant aut docent*, . . . omnino prohibentur." Now, the *matter* of Rule 9 takes fire like flax, and spreads like a canker; hence the legislator should have been most exacting as regards the *manner* of the book; but he has not proscribed except in the case of *ex professo* treatment; how, therefore, can we say that he proscribes books in Rule 14, for merely a passing reference to subjects that are slower to spread contagion? The opinion of the *Monitore* is, indeed, probable; it may even have the weight of reason on its side; but still I think that the arguments for the other opinion are at least probable; and if it be deemed so, it is the opinion that will be put in practice in the censorship of books on the aforesaid subjects, since it is the more lenient.

Besides Masonic societies, what other societies fall under the present Rule? First of all, it it is to be remarked that when the word *secta* occurs in any Decree or Constitution, two things are implied: (*a*) that there is a positive union among its members. For this, however, it is not necessary that there be an oath. (*b*) That it is directed in some way either against the Church or State. Hence, in order that any society fall under the words of the Rule, *ejusdem generis*, it must possess those two characteristics. Now, what societies possess those two characteristics? We may regard the following, at least, as having them—Communism, Socialism, Anarchism, and Fenianism.

§ 3.

What are the errors spoken of in the last part of the Rule? They are the errors contained in the Syllabus of

Pius IX., published 8th December, 1864.[1] One of the first questions that here presents itself is: Does a person incur excommunication by holding any of the propositions contained in this syllabus? It would appear at first sight that he does, from the words of the *Apostolicae Sedis*, Tit. ii., n. 1, where we read: "*Docentes vel defendentes, sive publice sive privatim, propositiones ab Apostolica sede damnatas, sub excommunicatione latae sententiae*," etc.

In explanation, therefore, it might be said that the said syllabus seems to contain two distinct classes of propositions. First, those that are elsewhere condemned by the Church as heretical; and anyone who defends such propositions incurs the excommunication. Second, propositions that are not found condemned elsewhere; and it would appear that a person may defend such propositions without incurring the excommunication; in proof, whereof, I might remark, that amongst the highest authorities there is a dispute, as to whether the said syllabus be a declaration *ex cathedra*, or not. Nay, there are several prelates who have not received it as a declaration *ex cathedra*, and who still have not incurred the censure of the Holy See. Now, it is incredible that such a state of things would have been tolerated had Pius IX. really intended the syllabus to be a declaration *ex cathedra*. Since, therefore, it is doubtful whether the syllabus be a declaration *ex cathedra* or not, the said "latae sententiae" excommunication is also doubtful, and according to the well-known theological adage, *ex-communicatio dubia, ex-communicatio nulla.*

A second question would be: Are books proscribed by the present Rule that defend *any* of the errors contained in the syllabus? This question was proposed to the Sacred Congregation of the Index:—

An opera (quae permulta sunt) erroribus infecta a syllabo damnatis

[1] Cf. Gury, vol. i., pag. cvii.

verbis Art. 14 prohibiti censeantur, quatenus errores ab Apostolico sede proscriptos continentia?

Res: Affirmative: si hos errores tueantur seu propugnent.

Datum Romae, ex Secretaria ejusdem Sacrae Congre. Indicis die 23rd Maii, 1898.

A. Card. Steinhuber, *Praef.*
Fr. M. A. Cicognani, O.P., *Secret.*

Anyone who glances through the *syllabus* will perceive how extensive and far-reaching is this clause, as thus interpreted by the Sacred Congregation. And what is here said of the propositions contained in the Syllabus of Pius IX. may be also said of the propositions contained in the Syllabus of Pius X. published on July 3, 1907.

Chapter VI.

sacred images and indulgences.

Regula XV.

Imagines quomodocumque impressae Domini Nostri Jesu Christi, Beatae Mariae Virginis, Angelorum atque Sanctorum, vel aliorum servorum Dei, ab Ecclesiae sensu et decretis difformes, omnino vetantur. Novae vero, sive preces habeant adnexas, sive absque illis edantur, sine Ecclesiasticae potestatis licentia non publicentur.

After having safeguarded, against corruption, the Sacred Scriptures and the morals of the faithful; and after having condemned what might lead to disorder within legitimate societies, the legislator now turns his attention to the interior, as it were, of the Church, and considers its garb or its decoration. The garb of the Church will belong to two different departments: to art, in its outfit and ornamentation, and to liturgy in the performance of its sacred ceremonies. Accordingly, he considers Sacred Images in Chapter VI. and Liturgy in Chapter VII.

There is a very close connexion between faith and sacred images; so that as the main purpose of the present legisla-

tion was to preserve purity in faith and morals, it was necessary to secure truthfulness in sacred images. Sacred Images represent to us in concrete and palpable form the abstract truths of our faith.

Rule 15 treats of the sacred images of our Lord, of the Blessed Virgin, of the angels and saints, and of the other servants of God. It absolutely proscribes all stamped images of our Lord, of the Blessed Virgin, of the angels and saints, or of any of the servants of God that deviate from the universal feeling and decrees of the Church. Images of the same, which may hereafter be stamped, shall not be published without the permission of ecclesiastical authority, whether they have prayers annexed to them or not.

It will be remarked that the Rule makes a distinction between the images stamped before the publication of the present Constitution, and the images that may be hereafter stamped. As a different provision is made for each of those classes of stamped images, I will treat of them in separate paragraphs.

§ 1.

The first part of the Rule treats of images stamped before the publication of the present constitution; for the qualifying term used is "impressae" and not "imprimendae." It refers to stamped images of every description: "quomodocumque impressae." Hence, engravings, photographs, lithographs, phototypes, and daguerreotypes are all included. Although "imago" in its generic sense may include water-colours, oil paintings, or statues, it is likely that in its specific sense here, the term does not include such works of art.

There is a great difference, for instance, between an "imago impressa" and an "imago picta," or "exsculpta." An "imago impressa" is got almost instantaneously on a

prepared surface from the object to be represented; an "imago picta" or "exsculpta," however, is obtained only by the slow and gradual realization, of the mental conception of the artist. Hence the legislator would seem to have excluded paintings and pieces of sculpture, by reason of the words employed, "imagines impressae." Moreover, the legislator speaks in the second part of the Rule, of images having prayers annexed; and who ever saw oil paintings or statues having prayers annexed to them? Finally, the legislator speaks about the publication of images; paintings and statues are not *published* but *exhibited*. Nor does the adverb "quomodocumque" interfere with this interpretation: for it may indeed have been used to designate the various kinds of stamped images here mentioned.

All stamped images made before the publication of the present Constitution that deviate from the feelings and decrees of the Church are proscribed to all by the present Rule. But how are we to know when it is, that they do so deviate? We have some general principles, and some rules regarding special subjects, to guide us.

The Council of Trent has pointed out in general terms, the direction in which artistic genius must look for inspiration, when dealing with sacred subjects. In the XXV. Session the Holy Council teaches that, the body of the faithful are instructed and confirmed in the faith, by pictures and other sacred images, which record the mysteries of our redemption; that they reap great spiritual fruits from the contemplation thereof, not only because they are thereby reminded of the great benefits and gifts, that have been conferred on them by Christ; but also because the miracles which God has wrought through His saints, together with their salutary examples, are thus laid before their eyes. They are, in consequence, moved to return thanks to God, and to change their manner of life in order to imitate the

saints; and they are, moreover, excited to adore and to love God, and to practise piety.[1]

The Sacred Council would, therefore, attribute to sacred images three effects: instruction of the intellect, retention by the memory, emotion of the will. The Angelical[2] teaches that when we gaze on an image, we feel our souls stirred by two emotions. The first draws us towards the image as a work of art; and we are pleased or displeased with it, according as it is in harmony or discordant with our tastes. The second emotion draws us towards the thing represented by the image; and this emotion is really the very same in kind, as if the object represented were truly before our eyes. Let us apply this to the present case; we are stirred with two emotions by the sacred images in our churches. The first emotion is aroused by the images as works of art; and this emotion is purely æsthetic. The second emotion is aroused by the *objects* represented by the sacred images; and this emotion is purely religious. The sacred image, therefore, determines in a certain way the object of our religious emotion; it is the medium through which we gaze on the sacred object; if the image is true, our emotion tends in the right direction; if it is false, we are led astray.

Gazing, therefore, on the sacred object through the medium of the sacred image, we are *instructed*, we are *reminded*, we are *moved*. Sacred images may be our books, our symbols, our preachers: they may be our books, for we can read in them at a glance what occurred long ages ago; they may be our symbols, because they bring into touch with our senses what oftentimes surpasses even our understanding; and they may be our preachers, laying constantly before us, the strongest motives of stirring ourselves up to the practice of piety and to a better life. As we would,

[1] Cf. St. Thomas, II.-II. 94, 2. [2] Ibid. II.-II. 103, 3.

therefore, have our words to be true, so we must have those sacred orators speak the truth. As the words from our lips, the light of our eyes, and the movement of our limbs, must give faithful expression to the thoughts in our mind, so must the works of the sacred artist give faithful expression to the mind and the feelings of the Church. The sacred artist must not, therefore, allow his fancy to run at random; he must keep it within the limits of Catholic doctrine, the Sacred Scriptures, the dogmas of the Catholic faith, and the traditions of the Church. We must, therefore, condemn any sacred work of art, that gives false expression to any Catholic truth, as we would condemn a speaker who would utter a falsehood.

But had we nothing to guide us, except the general teaching of the Council of Trent, we should occasionally find ourselves sad at loss, to apply the present Rule. In the Catechism of the Council of Trent, we find some instructions given, regarding the way in which the Most Adorable Trinity, Christ our Lord, the Angels, the B.V.M., and the Saints are to be represented;[1] and Benedict XIV., in his Bull *Sollicitudini*, 1745, has laid down very particular rules, for the guidance of sacred artists; and those rules supply us with everything required, for the application of the present Rule. In the said Constitution, he enumerates the principal sacred subjects, and indicates the general lines, on which they are to be treated. I will here repeat the suggestions of the Pontiff.

The first of the sacred subjects is the Most Holy Trinity. The Persons of the Most Holy Trinity may be represented in one group, or in separate tableaux. Those images of the Most Holy Trinity may be permitted, that represent God the Father in the form of an old man,[2] having in His bosom

[1] *Cat. Trid.*, pag. 338. [2] Dan. iii.

God the Son made man, and the Holy Ghost between them in the form of a dove. Those also may be permitted, that represent God the Father and God the Son slightly separated from each other, and God the Holy Ghost between them in the form of a dove. Artists, however, are to be condemned who make images of the Most Holy Trinity after their own fancy; as, for instance, those who would represent a man with two heads, and between them a dove, or those who would represent the Blessed Virgin as bearing in her womb the Three Persons of the Most Holy Trinity, as if all Three assumed human nature.

In separate tableaux the Three Persons may also be represented. The Father may be represented as walking through Paradise, or talking to Adam, because Adam is recorded to have heard the voice of the Lord walking in Paradise. He may be represented as leaning on a ladder reaching to heaven, as Jacob is recorded to have seen Him in sleep. He may be represented as surrounded with all the signs of majesty and power, as He manifested Himself to Moses.[2] He may be represented as a king sitting on His throne, as Isaias beheld Him;[3] or as an old man wrapped in a mantle, as Daniel contemplated Him.[4]

God the Son may be represented, separate from the other Persons, in all the stages of human development, because "The Word was made flesh, and dwelt amongst us."[5]

The Holy Ghost may also be represented apart from the other Persons. He may be represented in the form of a dove, because He is recorded[6] to have descended on the head of Christ in the form of a dove. He may also be represented in the form of tongues of fire, because it was thus He descended on the heads of the Apostles.[7] It is, however,

[1] Gen. iii.
[2] Exod. xxiii.
[3] Isaias vi.
[4] Dan. vii.
[5] John i.
[6] Luke ii.
[7] Act. ii.

forbidden to represent the Holy Ghost in the form of a young man, separate from the other Persons.

After images of the Most Holy Trinity come those of the Blessed Virgin Mary. Benedict XIV. approves of the custom, in existence from Apostolic times, of representing her as clothed in a garment of a rosy or purple colour, with a mantle of azure blue. It is forbidden to represent the Virgin, as clothed in the religious habit of any particular order or congregation.

The Church has always presented to the eyes of the faithful the angels under the forms in which they are recorded in Holy Writ to have appeared to men. Hence they will generally be represented as youths, beautiful in appearance, clad in white, girt round the loins, and sometimes as supplied with wings; all this expresses the ministry they hold from God, and some of the qualities they possess. They may also be represented as children rapt in contemplation; and this manner of representation symbolizes the purity of their minds, and the transport of their affection.

Canonized saints are to be represented with diadems; the beatified are not to be represented with diadems, but only with rays of glory; the servants of God who are neither canonized nor beatified, are not to be represented with either diadems, rays, aureolas, or with suppliants at their feet: because such would betoken honour and invocation.

By such indications are we to know whether or not, any image of a sacred subject deviates from the feeling and decrees of the Church.

§ 2.

The legislator is more severe with regard to sacred images, that may be stamped and published after the publication of the present Constitution, than he is with regard to those that had been stamped before its publication. Images

stamped before its publication are proscribed, only when they deviate from the feeling and decrees of the Church; those to be published after it, are all forbidden to be published, even though they should be conformable to the feelings and decrees of the Church, without the permission of ecclesiastical authority.

But what is the ecclesiastical authority here spoken of? It is the Bishop: for the Council of Trent, after having spoken of sacred images in the manner to which I have already alluded, proceeds to say—that if any abuse should have crept in, with regard to sacred images, it is the ardent desire of the holy Synod, that they should be corrected, and that no image be made, that might give false expression to any of the dogmas of faith, or that might lead the illiterate into error. And with regard to the point at issue it has—"*Postremo tanta circa haec diligentia et cura ab episcopis adhibeatur, ut nihil inordinatum, aut praepostere, et tumultuarie accommodatum, nihil profanum nihilque inhonestum appareat cum domum Dei decet sanctitudo.*"

And here a question of practical import presents itself: What if stamped images of sacred objects, perfectly in harmony with the feeling and decrees of the Church, have been published without the permission of the local bishop; are the faithful forbidden to buy them? It is probable that the faithful may buy them, even though they have been published without the permission of the bishop—provided, as already implied, that they contain nothing hurtful to the feelings or contrary to the decrees of the Church; or in other words, the Rule may be regarded as a guide and a warning, rather than as imposing an obligation.

In the first place, the end the legislator had in view in framing the present Rule, was to preserve the faithful from falling into error regarding the truths of our faith, as they might easily do, from gazing on false and fictitious repre-

sentations. Now, where would such danger be, if the said pictures were in perfect concord with Catholic truth? The same would appear, from the words used by the legislator: *non publicentur*. These words refer to the act of *publishing*, and not to the act of *buying*; and since the law is penal, we are not to suppose that the legislator meant more than what he has actually expressed. Lastly, it is likely that if the legislator wished to probibit the faithful from buying such images, he would have clearly expressed so. Compare, for instance, the present clause with a similar clause of Rule 13:—

Reg. 13. Vel quae (scripta) novas inducunt devotiones, etiam sub praetextu quod sint privatae, si publicentur absque legitima Superiorum Ecclesiae licentia proscribuntur.	Reg. 15. Novae vero, sive preces habeant adnexas, sive absque illis edantur, sine Ecclesiasticae potestatis licentia non publicentur.

In Rule 13, two things are most clearly expressed—(*a*) that such books are not to be published without ecclesiastical permission; (*b*) that if they should be so published they should be proscribed. In Rule 15, one only of those two is expressed—that such are not to be published without ecclesiastical permission.

The faithful, however, are to be warned against buying novel images of sacred objects, unless they bear the episcopal sanction. The illiterate cannot always know those that give expression to false doctrine; the approbation of a bishop gives them a pledge of their orthodoxy.

Regula XVI.

Universis interdicitur indulgentias apocryphas, et a sancta Sede Apostolica proscriptas vel revocatas, quomodocumque divulgare. Quae divulgatae jam fuerint de manibus fidelium, auferantur.

After having treated in the preceding Rule of sacred images, the legislator turns to Indulgences; and to them he

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devotes two Rules. Rule 16 is a short simple prohibition; it reduces to a nut-shell, all that was about indulgences in the old legislation. It absolutely forbids any person to publish apocryphal indulgences, or those that have been proscribed or recalled by the Holy See; if any such should have been published, they shall be taken out of the hands of the faithful.

It will be well to keep before our minds the different elements that enter into the definition of indulgences, in order that we may see clearly, from what part of the doctrine thereof, the present Rule, with its explanation, hangs. The first element that enters into the definition of indulgences is the "*causa finalis;*" and under this head comes all the doctrine regarding the nature of the effects produced by an indulgence, which is the remission of the "*reatus poenae temporalis,*" which sometimes remains after the "*reatus culpae*" has been forgiven. Then comes the "*causa formalis,*" or the form which this remission or abolition of the temporal punishment assumes; and under this head comes the doctrine regarding the amount of remission obtained—whether plenary or partial, etc. Then comes the "*causa materialis ex qua: ad instar,*" or the source from which indulgences derive their efficacy; and under this head comes the doctrine treating of the application of the merits of Christ and His saints to our souls; then the "*causa materialis in qua: ad instar;*" and here comes the doctrine regarding the persons who may gain indulgences, and the conditions required to be fulfilled. Lastly, comes the "*causa efficiens;*" and under this head comes the doctrine regarding the power of granting indulgences. Now, it is from this last point that the present Rule, with its explanation, hangs; and not so much the power of *granting* the indulgence, as to the manner in which it is *published.*[1]

[1] Cf. St. Thomas, Sup. 25.

The concession of indulgences is an act of jurisdiction, and he only can grant an indulgence to the universal body of the faithful, who has jurisdiction over the entire Church. Bishops, however, have limited powers, and can grant indulgences to a part of the faithful. On their shoulders is laid a portion of the solicitude of the government of the Church. They are taken by the Supreme Pontiff into a kind of brotherhood with himself; and accordingly, whereas in his Encyclicals he styles the universal faithful as his sons, he styles the bishops his brethren. As lieutenants hold the place of the supreme ruler within particular districts, so bishops hold the place of the Pontiff within their particular sees. Their power of granting indulgences is, therefore, limited, and is so, according to the will of the Supreme Pontiff.

The merits of Christ and His saints constitute a spiritual treasure in the Church; the Supreme Pontiff is the master of the household, and on his shoulders carries the keys of this treasure. He opens it with his will; when he opens there is no one to close it; and when he closes it there is no one to open. Now, the Pope could not attend in person to the entire administration of this spiritual treasure; he requires assistance. To lend this assistance the Congregation of Indulgences has been established, and through the medium of this Congregation, he generally makes known to the faithful what treasure he dispenses to them; and by means of the same Congregation, he keeps an account of what treasure he has already dispensed or recalled.

Now, should anyone publish among the faithful a fictitious document, testifying to the concession of an indulgence, that had not really been granted by the Supreme Pontiff—that should be called an apocryphal indulgence (ἀποκρύπτω). If he were to publish an indulgence, that had been condemned by the Pope—either on account of the abuses that had crept

into the preaching of it, or into the manner of gaining it—it should be called an "indulgentia proscripta." If he were to publish an indulgence that had already been recalled by the Supreme Pontiff, it should be called an "indulgentia revocata."

The present Rule absolutely forbids the publication of such indulgences, and prescribes that if any such have heretofore been scattered amongst the faithful, they should be forthwith admonished of their deception.

But how are we to know when an indulgence is apocryphal, condemned, or recalled? The Congregation of Indulgences has published collections of the various indulgences that have been granted by the Holy See, together with the conditions under which they may be gained; and from these collections we may know which indulgences are true, and which are false.

Regula XVII.

Indulgentiarum libri omnes, summaria, libelli, folia, etc., in quibus earum concessiones continentur, non publicentur, absque competentis auctoritatis licentia.

The preceding Rule refers to the publication of false indulgences; the present Rule refers to documents *in which true ones are published*. It prescribes that all books, pamphlets, leaflets, etc., in which the concessions of indulgences are contained, are not to be published without the permission of competent authority. The end of the Rule is, to prevent false teachers from abusing the faith of the people, and to secure that neither the excessive zeal of some, nor the malicious intentions of others, bring the spiritual treasure of the Church into contempt or derision.

This Rule would seem to have been taken from "*Decreta*

de libris prohibitis nec in Indice relatis," § iii., n. 12. The point of difference will be seen from a collation :—

Decretum.	Reg. 17.
Indulgentiarum libri omnes Diaria, summaria, libelli folia, etc., in quibus earum concessiones continentur non edantur absque licentia S. Congregationis Indulgentiarum.	Indulgentiarum libri omnes. summaria, libelli, folia, etc., in quibus, earum concessiones, continentur, non publicentur, absque competentis auctoritatis licentia.

Two things are required in the interpretation of this Rule: to explain the terms *summaria, libelli*, and *folia indulgentiarum,* and to show to what authority we are to refer for permission to publish such works.

Libri.—Since indulgences are granted under the form of decrees, *libri,* in which their concessions are contained, are books containing the decrees by which the various indulgences have been granted.

Summaria.—Are naturally books summarized; hence in the present context they are compendiums in which the various indulgences that have been conceded are enumerated, and extracts from the decrees by which they have been granted cited.

Libelli.—Are *libri* on a small scale; they will contain an enumeration of some few indulgences, with the decrees by which they have been granted.

Folia.—Are leaflets of a certain number of pages, according as the standard sheet of paper has been folded in 4°, 8°, 16°, or 24°; they will contain one or two indulgences, with some remarks to commend them to the faithful.

Absque competentis auctoritatis licentia.—What is the authority here spoken of? If we wish to publish for the spiritual welfare of the faithful, a book of indulgences, or of pious works that have been enriched by the Holy See with indulgences, to what authority are we to apply for approbation and permission?

In the *Decreta de lib. prohib.* of the old legislation, as may be seen from above, it was distinctly stated that we were to recur in such a case to the Congregation of Indulgences.

But the new legislation on the point would seem to have become somewhat vague, owing to the fact that the words "*absque licentia S. Cong. Indulgentiarum*" have been changed to "*absque competentis auctoritatis licentia.*"

The question under discussion has been proposed to the Congregation of the Index for solution. We give the question with the answer of the Congregation :—

Utrum in decreto No. 17, Decretorum generalium nuper a S. S.; D. N. Leone Papa XIII. editorum verba haec: "non publicentur absque competentis auctoritatis licentia," ita sint intelligenda, ut in posterum Indulgentiarum libri libelli, folia, etc., omnes ad solos locorum ordinarios pro impetranda licentia sint referendi; an vero subjiciendi sint censurae S. Indulgentiarum Congregationis aut Ordinarii loci, "secundum normas ante novam Constitutionem *Officiorum ac Munerum* stabilitas?"

Resp.: ad 1m partem: Negative.
„ 2m „ : Affirmative.

Datum Romae ex Secretaria ejusdem S. Indicis Congregationis die 7 Augusti anno 1897.

A. Card. Steinhuber, *Praef.*
Fr. Marcolinus Cicognani, O.P., *Secret.*

The answer of the Congregation simply amounts to this: that we are to apply to the same persons for permission and approbation, as we should have applied to, before the publication of the Leonine Constitution. Now, to whom should we have applied according to the old legislation? In some cases the bishops had power to grant permission for the publication of such books; in the majority of cases, however, the Congregation of the Indulgences alone had such power. What would appear to be the implied meaning of the answer of the Sacred Congregation would be this: That if the indulgences in question have been taken from an Apostolic Brief, or Rescript, or from a Summary already published with the permission of the Congregation of

Indulgences, the Ordinary has power to grant the required permission. If, however, the indulgences be taken from a Summary that has either never been approved of, or that is now for the first time to be published, permission must be obtained from the Congregation of Indulgences.

Chapter VII.

LITURGICAL BOOKS AND PRAYER BOOKS.

Regula XVIII.

In authenticis editionibus Missalis, Breviarii, Ritualis, Caeremonialis Episcoporum. Pontificalis Romani, aliorumque liborum liturgicorum, a Sancta Sede Apostolica approbatorum, nemo quidquam immutare praesumat; si secus factum fuerit, hae novae editiones prohibentur.

After having treated of sacred images and indulgences in Chapter VI., the legislator now turns his attention to the liturgy of the Church, and devotes Chapter VII. to it. It was necessary to consult the correctness of liturgy, in order to safeguard the faithful from misconceptions. The liturgy of the Church is her symbolic language; it is the collection of the rites and ceremonies, which she employs to express her inward feelings and belief. As a public speaker may make use of words and gestures to express his thoughts and feelings, so does the Church make use of Liturgy to give external expression to her inward belief. She is obliged to exercise continual vigilance over her liturgy, lest inaccuracy should creep in; for just as we might be deceived by the words and gestures of a speaker, so we might easily be led astray by a false liturgy.

The publications regarding the liturgy of the Church may be reduced to three classes : 1° Editions of the five liturgical books—the Missal, the Ritual, the Breviary, the Pontificale, and the Caeremoniale Episcoporum, together with some other books in which certain portions of the Church's

liturgy are published apart: such as the ceremonies of Holy Week or the Ordination ceremony. 2° The public prayers of the Church, and especially the litanies. 3° Books in which the public prayers of the Church are collected and published. To each one of those liturgical publications, the legislator devotes a Rule.

Rule 18 prescribes that no one shall presume to change anything in republishing the authentic editions of the Missal, the Breviary, the Ritual, the Caeremoniale Episcoporum, the Pontificale, or any of the other liturgical books which have been approved by the Holy See; if anyone should presume to make any change in republishing anyone of those books, he shall have his edition proscribed.

The legislator speaks of the *authentic* editions of the liturgical books: now, which are the *authentic* editions? In general, when we speak of anything as authentic, we refer it back to some one that has power over it (αὐθεντεῖν). When we speak, for instance, of a book as authentic, we refer it back to its author; when we speak of a legal interpretation as authentic, we mean that it emanates from the same man as made the law; and so when we speak of authentic editions of the liturgical books, we mean those editions that have been revised and published in the first instance by the Church.

Who in the Church has power to make authentic editions of the liturgical books? The Pope alone has power to make authentic editions of the liturgical books. Liturgy is the expression of dogma. The truths that we believe in our hearts we express with our liturgy. As the Pope has supreme power in defining dogmatic truths, which are the elements of belief in the Church, so also he has supreme power to select a liturgy which will be the fit and proper expression of them; for the conception of an idea, and its expression, belong to one and the same individual.

There may be more correct liturgies than one: for just as the linguist may express the same idea in several different languages, so the Church may express the very same belief, and the very same feelings, in several different liturgies. Nor does a multiplicity of liturgies cause confusion: they rather give a richness to the symbolical language of the Church; just as a prolific speaker will employ a number of synonymous terms to express the same idea. Nor do they lead to schism or rend the garment of the Church: they rather give variety to the garb of the Church; just as we may employ different colours to ornament our dress.

Yet, as far as she has considered it convenient, the Church has introduced uniformity in her liturgy, in order that as there is but one faith, there might also be but one expression of it. Now, of all the liturgies that have existed throughout the world, the Church has always preferred the ancient liturgy of Rome, because Rome has always remained orthodox in the faith. In the Western Church, however, she has allowed one or two forms of liturgy to stand—to be as witnesses to testify to the conformity of the present Church with that of almost apostolic times; and in the Eastern Church she has allowed several forms of liturgy to stand—to be as proofs that the various liturgies, which grew like plants from the traditions surrounding each of the Apostles, have all sprung from one parent stock.

The present Rule has reference to the liturgical books of the Roman liturgy alone.

Having now determined that it is only the Church that can make authentic editions of the liturgical books, and that the Roman Pontiff holds supreme power in liturgy as he does in dogma, it remains for us to determine what Pontiffs *have* made authentic editions. This question may be solved by examining the introductions to the different liturgical

books. For instance, the authentic editions of the Missal are those of St. Pius V., Clement VIII., and Urban VIII. The authentic editions of the Roman Breviary are those made by the same Pontiffs. The authentic editions of the Roman Ritual, the Pontificale, and the Caeremoniale Episcoporum are those made by Benedict XIV.

Quidquam immutare praesumat.—The interpretation of this clause may be deduced from the Bulls prefixed to the authentic editions of the liturgical books. *Quidquam* includes all the substantial things in connexion with the said books; and *immutatio* implies any change whatsoever of the said substantial things, either by omission, transposition, or insertion.

A question of some importance, and one which has already been widely discussed, is: What is demanded by this Rule of one, who desires to publish a new edition of one of the liturgical books? In reply I should say that all that is required by the present Rule is the certainty that no substantial change has been made. However, as there are additions made from time to time to some of the liturgical books (to the Breviary, for instance, and to the Missal), the custom holds of submitting the edition, before its publication, to the Congregation of Rites, to make sure that it contains everything, and that it is up to date. But this it should be remarked is not exactly like the judgment or *censura* passed on certain books before their publication; and hence what the S. Congregation of Rites does is, not to give an *imprimatur*, but to testify that the edition submitted, is conformable in everything with the typical edition preserved by the Congregation. And what is here said of editions of the entire liturgical books may be said also of portions of them—such as the Holy Week ceremonies, or the ordination ceremony.

REGULA XIX.

Litaniae omnes (praeter antiquissimas et communes, quae in Breviariis, Missalibus, Pontificalibus ac Ritualibus continentur, et praeter Litanias de Beata Virgine, quae in sacra Æde Lauretana decantari solent, et Litanias Sanctissimi Nominis Jesu jam a Sancta Sede approbatas), non edantur sine revisione et approbatione Ordinarii.

After having treated of the publication of new editions of the liturgical books in the last Rule, the legislator now considers the publication of new litanies; and he prescribes that no litany be published witnout the revision and approbation of the bishop, except those ancient and well-known litanies contained in the Breviary, the Missal, the Pontificale and the Ritual, and the Litanies of the Blessed Virgin which are sung in the Holy House of Loreto; and, finally, the Litanies of the Holy Name which have been approved by the Holy See.

Hence it appears that editors may publish the Litanies of the Saints as they are found printed in the Missal, the Breviary, or the Ritual, as well as the Litanies of the Holy Name and of the Blessed Virgin, without recurring to any ecclesiastical authority. For the publication of all other litanies the revision and approval of the bishop is required.

According to the present Rule, therefore, bishops have power to revise and to authorize the publication of new litanies; hence, naturally, arises the question: Have bishops the power to approve new litanies, and to grant permission to have them sung or recited at devotions? In answer to this question we should distinguish two kinds of devotions —public devotions and private devotions. It would appear that bishops have not power of granting permission of having new litanies sung at public devotions; for we find the following decree passed by the Sacred Congregation of

the Holy Office, 18th April, 1860, from which evidently the present Rule has been taken :—

Litaniae omnes, praeter antiquissimas et communes quae in Breviariis, Missalibus, Pontificalibus continentur, et praeter Litanias B.M.V. quae in Æde Lauretana decantari solent, non edantur sine revisione et approbatione ordinarii ; "nec publice in Ecclesiis, publicis oratoriis et processionibus recitentur, absque licentia et approbatione S. Rituum Congregationis." [1]

From this it would appear that no litany may be sung or recited at public devotions that has not been approved, at least, by the Congregation of Rites.

In explanation I should say that when any particular prayer or devotion is publicly recited or practised, it becomes, in a certain way, the voice of the Universal Church. Now, who can *speak* for the Universal Church but him who thinks for the Universal Church? and who can think for the Universal Church but him who rules it? Power in dogma and power in liturgy belong to one and the same individual, just as thinking and talking. To say, therefore, that a bishop has power to sanction any particular public prayer or devotion, would seem to imply that he has power to speak for the Universal Church,—which is not true. Hence it would be erroneous to conclude from the present Rule that bishops have power to approve new litanies for public devotion.

Can bishops grant permission to recite new litanies at private devotions? It would appear that they can: for, if they cannot, the power granted them of approving new litanies would be perfectly useless. New litanies, therefore, to be sung or recited at public devotions must be approved at least by the Congregation of Rites. New litanies, to be recited at private devotions, may be approved by bishops.

[1] *Acta Sedis*, xxviii. 67.

Regula XX.

Libros aut libellos precum, devotionis vel doctrinae, institutionisque religiosae, moralis, asceticae, mysticae, aliosque hujusmodi (quamvis ad fovendam populi christiani pietatem conducere videantur) nemo praeter legitimae auctoritatis licentiam publicet, secus prohibiti habeantur.

After having treated of the more common public prayers, the legislator now considers handbooks of devotion; and with regard to these he prescribes that no one shall presume to publish, without the permission of legitimate authority, prayer-books, or books treating of piety or Christian doctrine, or books treating of morals, asceticism, mysticism, or any other similar subject, although they appear apt to foster and promote Christian piety. Should any books treating of those subjects be published without the approval of legitimate authority, they shall be proscribed.

In order to determine with accuracy the meaning of some of the terms of the present Rule, its grammatical construction must be carefully noted. It is to be remarked, in the first place, that the words *religiosae*, *moralis*, *asceticae*, and *mysticae* are all adjectives qualifying *institutionis*. Then, as regards the meaning of the conjoined terms, *institutio religiosa*, *institutio moralis*, etc., it is to be remarked that they imply something more than a mere exposition of religious doctrine or of Christian doctrine; they imply a certain building-up or development of Christian doctrine or morals from certain fundamental principles. Let us now proceed to an individual examination of the terms.

Libri precum.—Are handbooks containing prayers to God, to our Lord, the Blessed Virgin, or to the saints.

Libri devotionis.—Are handbooks containing the litanies and other prayers proper to certain devotions or pious practices.

Libri doctrinae institutionisque religiosae.—The works here referred to must treat of Christian doctrine, as the word *doctrina* implies; they must, moreover, treat of Christian

doctrine in a more or less scientific order, as the word *institutio* would seem to imply: for *institutio* implies a certain construction, or a certain building up of knowledge. The works, however, here designated cannot be professional works on theology, for such works are treated of in Rule 41. It would appear, therefore, that the words under discussion, designate catechetical works which are written in a more or less scientific order, and are designed to impart a rudimentary knowledge of the principal truths of our faith.

Libri institutionis moralis.—Those words would seem to designate books written for the purpose of setting forth in a popular way the rules of morality, basing the proofs thereof on Scripture and on simple philosophical principles.

Libri institutionis asceticae are books which explain how a soul may proceed step by step on the way of perfection.

Libri institutionis mysticae are books which treat of the supernatural gifts of God, such as visions, discernment of spirits, revelations, or ecstasies. Unless books treating of any one of those subjects bear the approval of legitimate ecclesiastical authority, the faithful are forbidden to use them.

The main object, therefore, that the legislator had in view in framing the present Rule was, to sift the devotional books that issue from the press day after day. In the old Index we find hundreds of books of this kind, and even in the new one there are not a few. Although those works are always, we may suppose, written in the most pious spirit, and from the purest motives, yet it oftentimes happens that they contain unsound doctrine: that they propose forms of devotion that have not been sanctioned by the Church, or that they contain certain notions of virtues which are not theologically correct. The effect of the present Rule will be to sift those works, and to block the way to any one of them that is not calculated to foster piety on truly Catholic grounds.

A practical question has been suggested under this head:

Would an ordinary life of a saint or an edifying story for children come under this Rule? In reply: If the life of the saint be intended to establish or to strongly recommend any particular devotion, the book would rather come under Rule 13; and in that Rule it is stated that it not only requires ecclesiastical approval, but also that it shall be regarded as proscribed if published without such approval. However, if the book is a simple biography, it comes under Rule 41; and in that Rule we shall see that it is the history of the Church, and not the history of any one of her members, that is specified.

What of single prayers, printed on leaflets, and circulated for private devotions? They would also come under Rule 13, in which we find the generic term *scripta;* and, if not approved, would be proscribed, as stated in that Rule. And what is said of prayers on leaflets, and booklets purposing to recommend or establish new devotions, may be also said of novenas and booklets of devotion, for the several months, or for different days.

Chapter VIII.

The Press: its effects: aspects in which regarded in present legislation.

Regula XXI.

Diaria, folia, et libeli periodici, qui religionem aut bonos mores data opera impetunt, non solum naturali, sed etiam ecclesiastico jure proscripti habeantur.

Current autem ordinarii, ubi opus sit, de hujusmodi lectionis periculo et damno fideles opportune monere.

After having treated of sacred liturgy, the legislator now turns his attention to a species of literature, which may be said to be the literary production characteristic of the present age, i.e., newspapers and periodicals. To this class of literature, which we may designate under the generic name of the Press, he devotes Chapter VIII.

We must distinguish at the outstart, between newspapers and periodicals. Newspapers have generally for their *subject* the current events of the day, and the immediate conclusions to be deducted therefrom. Periodicals, on the other hand, generally discuss events more fundamently; they discuss their causes and make surmises regarding their ultimate consequences. The press, comprising both of those kinds of literature, gives expression to the ideas and feelings prevalent at the centres of thought in the country. Accordingly, just as the human voice is the organ of expression in the human individual, so the press may be regarded as the organ of expression of the country.

The *form* that the press will assume will depend in a great measure on the social condition of the country, in much the same way as the exterior manner and deportment of an individual will depend on his natural character and education. The *form* of the press and the state of the country will act and react on one another. In order of causality, the state of the country is first, and it rough-hews the *form* of the press; the *form* of the press, in turn, brings the public feeling to a definite shape. If the press is good in *form*, it is of immense social benefit, inasmuch as it leads public thought and feeling in the proper direction; but, on the other hand, if it is bad, it is like a cancer or ulcer that draws to one point everything that is corrupt and fetid in the social body. In applying the present chapter of Rules to the press we may, therefore, regard newspapers and periodicals as moral individuals, having definite characters, guided by certain principles, and actuated by special motives. The separate issues we may regard as so many specimens of the language of those individuals; and we may ascertain their character by reading their issues, just as we might judge the character of any person by listening to his conversation.

It is not easy to classify or *divide* newspapers and

periodicals. They cannot be well divided according to their subject matter, because they may talk of anything, just as a human individual. Nor can we well divide them according to the principles they profess, for they are as different in character as the faces of those we meet in the street are different from one another. They may, however, be roughly classified according to the intervals that elapse between their separate issues; and it would appear that the legislator has classified them on this basis in the present Rule.

In the present Rule the legislator declares and prescribes that all newspapers, whether dailies or weeklies, as well as reviews and periodicals, that intentionally and designedly, or with set purpose, assail religion and morals, are proscribed, not only by the natural law, but also by the ecclesiastical law. He also desires that bishops of places wherein such publications should chance to be made would give timely warning to their flocks of the danger with which they are surrounded, and the injury they suffer from reading such productions.

Let us now proceed to an examination of the terms of the Rule.

Diaria.—Diaria is a word formed from *dies*, and signifies in the present context publications issued every day, whether they be composed of one or more sheets of paper; it would, therefore, be equivalent to our word *dailies*.

Folia are publications composed of one or more standard sheets of paper; they will have a greater or less number of pages according as they are in 4to, 8vo, 12mo, etc.; and they may be made daily or weekly.

Libelli periodici are small books published periodically. They are, consequently, periodicals that may be issued weekly, fortnightly, or monthly.

Qui religionem impetunt.—What is the meaning of the term *religio* in this context? It would appear that we are

not to confine the term to purely Catholic doctrines, but that we are to extend it to all truths concerning God. The natural law stamped on the minds of all men, the written law given to Moses, and the Catholic Church founded by Christ, have a close relation one with the other. If anyone were to assail the natural law, he should assail thereby the Bible also; and were he to assail the Bible, he should assail the Catholic Church as well.

Directing our attention to the Catholic Church and to the various sects, we remark that there are many truths held by the sects in common with the Catholic Church; and that there are some doctrines held by the Catholic Church alone, Now, we must get words to express the set of truths peculiar to the Catholic Church; the words will be *Fides Catholica*. We must also get words to express *all* the truths held by the Catholic Church, even those which she holds in common with the sects; the expression will be *Religio*.

That the legislator has used the terms *Religio* and *Fides Catholica* with those significations throughout the present constitution will become apparent from a collation of some of the Rules :—

RULE 2.

Libri apostatarum, haereticorum, schismaticorum, et quorumcumque scriptorum haeresim vel schisma propugnantes, aut ipsa *Religionis fundamenta* utcumque evertentes omnino prohibentur.

RULE 3.

Item prohibentur acatholicorum libri, qui ex professo de *Religione*.

Tractant, nisi constet nihil in eis contra *Fidem Catholicam* contineri.

RULE 5.

Editiones textus originalis et antiquarum versionum Catholicarum Sacrae Scripturae etiam ecclesiae orientalis, ab acatholicis quibuscumque publicatae, etsi fideliter et integre editae appareant, iis dumtaxat qui studiis theologicis vel biblicis dant operam, dummodo tamen non impugnentur in prolegomenis aut adnotationibus.

Catholicae Fidei dogmata permittuntur

Examining those three Rules, we perceive that in Rule 2 *Religio* is used to cover the whole extent of Catholic truth—even those truths which the Catholic Church may hold in common with the sects. In Rule 5 we see that *Fides Catholica* is used to cover the area of truth proper to the Catholic Church; and in Rule 3 we find the two expressions compared, and a far wider extension given to *Religio* than to *Fides Catholica*. I would then conceive all Christian truth as lying out in an immense area. This whole area I would call *Religio*; a part of this area, however, is the personal property of the Catholic Church; and this I would call *Fides Catholica*.

Bonos Mores.—*Boni Mores* in the present context would seem to be co-relative with *Religio*. As Natural Ethics are co-relative with Natural Theology, or as Moral Theology is co-relative with Dogmatic Theology, so *Boni Mores* are co-relative with *Religio*. *Religio* includes the speculative truths, *Boni Mores* the practical ones. The expression will, therefore, not only include the moral code peculiar to the Catholic Church, but also the moral code of any of the sects in so far as it may coincide with that of the Catholic Church.

Data Opera.—A difference of opinion exists among the commentators on the Rules of the Index, regarding the exact meaning of this expression. According to *Il Monitore Ecclesiastico*, *data opera* and *ex professo* would be synonymous expressions. "*Dicemmo altrove che il data opera equivale all' ex professo*";[1] and elsewhere we read "*si noti quel data opera, expressione simile all' altra ex professo.*"[2] L'Abbé Pèries, however, is of opinion that the two expressions mean quite different things. In translating Rule 9, wherein the expression *ex professo* occurs, he writes: "*Les*

[1] Cf. *Il Monitore*, p. 57. [2] Ibid., p. 37.

livres qui traitent ex professo les sujets lascives ou obscènes," etc.;[1] whereas in translating the present Rule he writes: "*Que les journaux, feuilles, et revues qui atteignent à dessein la religion ou les bonnes moeurs,*" etc.[2] For *ex professo*, therefore, l'Abbé Pèries finds no French expression; for *data opera* he finds *à dessein*. P. Pennacchi makes a clear distinction between the significations of the two expressions.[3]

Against the opinion, therefore, of *Il Monitore*, we have those of P. Pennacchi and of l'Abbé Pèries; and, moreover, there exists a strong presumption that the legislator would not have used two different expressions to designate the same thing in the present Rules, wherein precision of diction has been so much studied.

In explanation, I should say that the term *ex professo* implies in the first place a *declaration* of something (*ex profari*). In its literal sense, then, the expression should be applied to men and not to books. When applied to writings, as in the present context, it is used in a slightly metaphorical sense. But, since a person does not *declare* a thing without having some *intention*, the term implies in the second place, an *intention* of doing something. An *ex professo* treatment of a subject, therefore, implies two things—the *intention* of treating of it, and *declaration* or avowal of that intention. In treating of his subject the author will generally proceed along a predetermined line; but occasionally he may step aside for awhile; and what he then writes is said to be

[1] Page 84. [2] Page 122.

[3] *Data opera* impetere nihil aliud est quam *studiose* de *industria consulto* aliquid aggredi; italice: *a bella posta, a bello studio, apposta, studiosamente, scientemente.* Quae dictio differt ab alia *ex professo*: quae importat aliquid scribere vel docere circa datam materiam enucleate, et cum argumentorum serie atque delectu, ut lectores de re persuadeantur. . . . . Exinde omne id quod *ex professo* agitur, etiam *data opera* agitur; sed non e contra, cum haec dictio non adeo se extendat, nec tanta complectatur quantum dictio *ex professo*.

written *obiter;* hence we have the expressions *obiter dicta* and *dicta ex professo.*

The expression, *data opera,* would seem not to imply a *declaration* at all. Thus, we have the common Latin expressions,—*est pretium operae, operam alicui negotio navare, studio operam praestare,*—which do not imply a *declaration* of anything. Again, we read the following in the Civil War of Cæsar,—"*Dent operam consules, praetores, tribuni plebis, ne quid respublica detrimenti capiat,*"[1]—where the meaning is *precaution,* not declaration; and in Sallust's history of Jurgurtha we read,—"*Qui postquam allatas litteras audivit, ex consuetudine ratus opera et ingessu suo opus esse, in tabernaculum introivit,*"[2]—where the meaning is advice or counsel, and not the declaration of anything. Turning to ecclesiastical writers, we read in a sermon of St. Augustine,—"*Sed potius abstinentes ab omni luxu, ebrietate, lascivia demus operam sobriae remissioni ac sanctae sinceritati*"[3]—wherein there is no intimation or declaration of any kind. Finally, elsewhere in the present Rules we have the expression clearly used to signify *intention* or *study,* exclusive altogether of any outward declaration. In Rule 8, for instance, we read; "*Hae nihilominus versiones iis, qui studiis theologicis vel biblicis dant operam, permittuntur.*" I, therefore, consider the opinion of *Il Monitore* as improbable.

Summing up then. *Ex professo* implies two things: (*a*) an intention of doing something; (*b*) and a declaration thereof. *Data opera* implies only the *intention.* Hence it follows, as P. Pennacchi says, that what is *ex professo,* is also *data opera;* but not *vice versa.* We should here carefully note the greater severity of the legislator towards the

[1] *De Bello in Civil, in principio.*
[2] *Jurgurtha,* cap. 71.
[3] Rom. Brev. Serm. proposito pro Dom in Alibis.

press than towards books. A book is generally proscribed only for an *ex professo* treatment; a journal or periodical is proscribed even for a *data opera* treatment.

Non solum naturali, sed etiam ecclesiastico jure proscripti habeantur. It will have been noted how often the legislator refers to the natural law, and the contrast he implies between its proscription of wicked literature and that of the ecclesiastical law. In the *Officiorum ac Munerum*, having occasion to refer to the good results of the Index legislation while the civil powers were one way of thinking with the Church and were guided by the law of God, he says: *Neque fructus fefellit operam quamdiu in rebus publicis administrandis rationi imperandi ac prohibendi, lex aeterna praefuit, rectoresque civitatum cum potestate sacra in unum consensere.* In Rule 4 he implies a contrast: *Libri eorumdem auctorum jure ecclesiastico prohibiti non habeantur.* In Rule 9, treating of immoral works, he states: *Cum non solum fidei sed et morum, qui hujusmodi librorum lectione, facile corrumpi solent, ratio habenda sit.* And in the present Rule: *Non solum naturali sed etiam ecclesiastico jure proscripti habeantur.* A number of questions arising from the relations of those different laws, and referring to the difference between proscriptions under them, we may now here briefly consider.

First.—When may books be said to be proscribed under the natural law? In explanation, I should say that a law is primarily intended to direct or restrain one's actions. The Latins called it *lex*, because it *bound* them to act in a certain way (ligare); and they called it *regula* because it *ruled* them. Now we rule horses with bridles and bits, as St. James remarks, but men are ruled through reason; and so the Angelical calls a law an "ordinatio rationis." [1]

[1] I.-II. 90, 4.

Reason is of two kinds: speculative and practical. The laws of speculative reason are laid down in logic, and have *truth* for their object; we should say that anyone would violate them, who would not observe the rules of the syllogism. The laws of practical reason are laid down in ethics, and have *good* for their object. There exists a very strong analogy between those two branches of reason, and the laws that regulate them. As there are certain speculative truths, called first principles, which are at the root of all logical conclusions, and which require no proof; so there are certain *good things* which are at the root of all practical laws, and which man seeks and embraces without any constraint or persuasion.

Into the definition of man enter *animal* and *rationale*; he may be considered then as an animal, and as a rational being. As an animal there are two things that he seeks spontaneously and almost from instinct. First, to preserve his own life; and to this end he is induced to take food. Second, to preserve the life of his race; and to this end he is drawn to sexual intercourse. Considered as a rational being there is one thing that he spontaneously seeks—to develop his faculties; and to this end he is induced to live in society. Accordingly, we have three precepts of the natural law; 1.° That which secures the life of the individual. 2°. That which secures the life of the race. 3.° That which secures the life of the State. Each of those have again subordinate or secondary precepts.[1]

In theological questions we frequently have conclusions asserting that such or such an action is forbidden by such or such a precept of the natural law. Thus we might say that suicide is forbidden by the *first* precept of the natural law; that immorality is forbidden by the *second* precept of

[1] *Summa*, I.–II. 94, 2

the natural law; and we might say that Anarchism, Socialism, and Freemasonry are contrary to the *third* precept of the natural law.

How, now, are we to explain the proscription of the books of Ovid, Cicero, and Anaxagoras? In the first place we might say that Cæsar Augustus and the Roman and Athenian Senates would never have condemned the aforesaid books, unless they saw themselves in some way assailed by them. Rome and Athens believed themselves to be, in a certain way, the children of the gods: to have been blessed by them, and to have flourished under their patronage. The Romans never ventured on any great enterprise without having first offered sacrifice; and they attributed their success as much to the good-will of the gods as to their own prudence and valour. The pagan state identified itself with paganism; and accordingly, when Anaxagoras and Cicero openly assailed paganism, the Senate saw that a blow was dealt at themselves, and they rushed to the assistance of their patrons, as a child might rush to shield its parent from insult. The books of Cicero and Anaxagoras would, therefore, seem to have been proscribed under the *third* precept of the natural law. Not so, however, the book of Ovid. The books of Anaxagoras and Cicero might be said to be impious: that of Ovid was immoral. The books of Anaxagoras and Cicero assailed the state through its patrons: that of Ovid assailed it through its constituent element—the race; for nothing tends to the destruction of the race so much as immorality. The book of Ovid would, therefore, appear to have been condemned under the *second* precept of the natural law.

Similarly, if a book defending suicide were proscribed in the olden times, its proscription would be in accordance with the *first* precept of the natural law. And what is here said with regard to the proscription of those well-known classical works by pagan governments, may be applied to all civi

proscriptions of works injurious to the individual, or the race, or subversive in any way of civil power.

Second.—But, besides the natural law, and its various precepts, it was neccssary for many reasons that God would deign to give us a divine law:—1°. on account of the *end* to which He had ordained us. If, indeed, man had been ordained to nothing beyond this mortal life, there would have been no necessity of a law beyond the reach of man's own understanding and inherent inclinations; but God has ordained us to an end far beyond the reach of our understanding, and far outside the range of our inherent inclinations; for St. Paul says that no ear hath heard, or eye perceived, what God has in store for His elect; and David, who had been already fully acquainted with the natural law, beseeches God to give him another law, the Divine law—*Legem pone mihi Domine viam justificationum tuarum* (Ps. cxvii.). 2°. To enable man to act with certainty in the particular conclusions drawn from the natural law; although the primary precepts of the natural law will be known to all, yet all will not be acquainted with the particular conclusions drawn therefrom. Hence it was necessary for man to have for his guidance a divine law as well as a natural law.[1]

However, the divine law would seem to have no *objectively* distinct precept from those of the natural law, with regard to the proscription of bad books and newspapers; it merely promulgates anew, in a new light, as it were, the precepts already imposed by the natural law; and so St. Paul says, *Eratis aliquando tenebrae, nunc autem lux in Domino; ut filii lucis ambulate.*—"Once, indeed, you were blinded with ignorance and error and darkened by sin; now you have the light of faith to guide you."[2]

Third.—Besides proscription by the natural law or divine

[1] Cf. *Summa*, I.-II. 91, 4. [2] Ephes. 5.

law, we have also proscription by the ecclesiastical law Sometimes a book may be proscribed by the natural or divine law without being proscribed by the ecclesiastical law; and of such we have an example in Rule 4 of the present legislation. It has already been explained how we are to understand such an act of the Church. Again, sometimes books will be proscribed by the ecclesiastical law which would not be proscribed by the natural or divine law. Thus many books which would not assail in any way the life of either the individual, the race or society, and which would not be the slightest occasion of sin to priests and some laymen, will be forbidden to all by the ecclesiastical law. The ecclesiastical law, therefore, in the proscription of books does two things over and above the natural or divine law; it specifies the precepts of the natural or divine law, and enforces them with a new vigour, imposing an additional obligation.

It is to be remarked that the more particular the case becomes, and the greater the number of surrounding circumstances, the more difficult it is to apply in practice a general law. Accordingly, although we might be well able to explain the precepts of the natural or divine law, yet it might happen that we could not apply our speculative knowledge to practical and particular cases. The ecclesiastical law does this for us; it takes us by the hand and lays our finger on the tainted book or newspaper. It does more; if we show any reluctance to keep away from what is bad, it compels us to do so.

Fourth.—What are the relations existing between those three laws—the natural, the divine, and the ecclesiastical? In reply I should say that as all relationship is founded either on *actio* or *passio* or on *quantitas*,[1] and as there can be no question of *actio* or *passio* in the present instance, so in discussing the relations between those laws, we are to

[1] *Summa*, I. 28, 4.

attend principally to their comprehension, i.e., to the objects of the precepts contained under each of them.

Comparing thus the natural law with the divine law, we see that everything commanded by the natural law is also commanded by the divine law. It is, however, commanded under a new light, the light of revelation. And so we find St. Paul telling the Romans: *Cum gentes quae legem non habent, naturaliter ea quae legis sunt faciunt*—"Those who have not the light of faith have nothing else to guide them in discerning between right and wrong but the light of reason."[1] And he tells the Ephesians after their conversion: *Eratis aliquando tenebrae, nunc autem lux in Domino; ut filii lucis ambulate*—"Now that you have the additional light of faith, avoid many things which, before your conversion, you were unable to perceive."[2] There are, however, some things commanded us by the divine law that do not fall under the natural law; thus the acts of the three virtues, Faith, Hope, and Charity, tend to a *supernatural* object, and are not comprised by the natural law.

Comparing in the same manner the divine law with the ecclesiastical law, we see that the object of the divine law falls under the ecclesiastical law, but not *vice versa;* there are some things commanded us by the Church which do not fall directly under the divine law. In illustration of this I should remark that we find several disciplinary decrees in the Decrees of the Council of Trent, which the Church changes from time to time to suit the exigencies of time and place. Now, if they were divine, she would not change them.

Although, however, the object of the divine law falls under the ecclesiastical law, yet the Church sometimes preserves economic silence with regard to some particular things commanded by it; and of such policy we have, as

[1] Rom. ii. [2] Ephes. v.

already stated, an example in Rule 4 of the present Constitution.

To what, then, shall we liken those three laws? We may compare them to three wheels moving one within the other; or, again, recurring to the parable of the seed and the sower; may we not say that the herb was put forth in the natural law, that the ear grew in the divine law, and that an abundant harvest has been produced under the care of the Catholic Church?[1]

Fifth.—Are we to understand *jus naturale* in Rule 21 in the same sense as we should predicate it of the proscriptions of Augustus and the Roman and Athenian Senates, or of proscription of any kind made by the civil powers? It would appear that we are not.

In explanation I should say that we may speak of virtuous actions in two ways—1°. In so far as they are *virtuous*. 2°. Or we may speak of the *species* of the virtues. If we speak of human actions in so far as they are virtuous or not, then all good actions are according to the natural law, and all bad actions are contrary to it. Everything belongs to the natural law to which man is induced by the elements of his nature; and he is led by the elements of his nature to follow the dictates of reason Hence, when he acts in accordance with reason, he acts virtuously, and when he acts contrary to it he performs a bad action; and so St. Paul says: *Quod non est ex fide peccatum est*—"Whatever is not in accordance with the dictates of reason and conscience is sinful." Hence in one sense we may say that every good action is in accordance with the natural law, and that every bad action is contrary to it. If, however, we consider the *species* of the virtue, or the *object* of the action, then those actions only will be contrary to the natural law which tend in some way

[1] *Summa*, I-II. 107, 3.

to destroy either the individual, the race, or human society.[1]

Hence we find the words *jus naturale* used in two different senses by theologians. In one sense to designate the *object* of the action, in the other to designate its *conformity* or *deformity* with reason. In the first sense we may say that the natural law tends to preserve the individual, the race, and human society; and it is in this sense that we are to predicate the law of all civil proscriptions. In the other sense, however, we may say that the natural law forbids us to expose ourselves to the proximate occasion of sin, unless a sufficiently grave reason supervenes; and it is in this sense that we are to understand the *jus naturale* in Rule 21; and that writers on the Index legislation usually use the terms.[2]

In the present legislation on the Index, then, there are two kinds of proscription—proscription by the natural law, and proscription by ecclesiastical law. By the natural law are proscribed all books that might be the cause of our spiritual ruin; by the ecclesiastical law are proscribed all books included in the present Rules of the Index, as well as those *individually* condemned by special decrees.

Sixth.—A question that is sometimes discussed is: Whether or not it is by the present Index legislation that this obligation of the natural law regarding wicked literature is laid upon us? In reply I should say that the obligation of the

[1] *Summa*, I.-II. 94, 3.

[2] Thus Dr. M'Donald writes (*I. E. Record*): "What are the obligations of Irish Catholics with regard to dangerous books and periodicals? What are we to preach? Are we to confine ourselves to inculcating the natural law, which undoubtedly forbids one, under the pain of mortal sin, to expose oneself to serious spiritual danger except under the stress of some necessity proportionate to the risk? *Il Monitore* writes (p. 57): 'E dichiarasi che come questi son prohibiti per *diritto naturale*, cosi pure sono proscritti per *legge ecclesiastica*'; and P. Pennacchi writes (p. 163): 'Jure enim naturali libros contra religionem legere prohibemur ob periculum ruinae spiritualis.'"

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natural law (which I here speak of in the sense that it forbids everything that might be to us an occasion of sin) is quite independent of the present Index legislation. We were obliged by the natural law to abstain from the reading of wicked literature before it was framed or promulgated; and we should be obliged to do so even though we should never come to a knowledge of its prescriptions. This obligation is laid upon us by the *Ten Commandments*, and a violation of it will assume the character of the virtue that the wicked work of literature would lead us to violate.

Seventh.—Is there any standard by which we may estimate the relative degrees of malice of wicked publications? In reply I should say that the treatment of their subjects being *ex professo*, and the style and the whole manner of composition being similar, the degrees of malice of wicked publications will be according to the objects and the virtues they assail.

In explanation I should say that, looking out on the reading public, we may regard them as one vast social body. The health of this social body will consist in being guided by the dictates of reason and conscience, or in the practice of virtue: *Voluntas cujuslibet legislatoris haec est*, writes Aristotle, *ut faciat homines bonos;* and the Angelical: *Impossibile est quod bonum civitatis bene se habeat, nisi cives sint virtuosi, ad minus illi quibus convenit principari*[1]; and its ailments will be its crimes and its violations of virtue. Wicked publications will be so many germs of disease, spreading infection. In the human body the limbs and all the organs derive their motion and activity from the heart; and it is by its aims, its ambitions, and its aspirations that the body social is kept constantly on the move, in activity and alive. As ailments are the more serious and dangerous in proportion as they approach and assail

[1] *Summa*, I.-II. 92, 1.

the heart, which is the most vital organ, so publications will be the more wicked in proportion as they assail the higher and more primary aims of human society. Now, examining the tendencies of mankind, we remark that all external goods are directed towards our own comfort and convenience, and that we ourselves have our eyes turned to God Almighty as our ultimate aim and aspiration.[1] Accordingly, dividing all the works forbidden by the natural law (understood still in the sense that it forbids whatever should be to us an occasion of sin) into three classes, I should say that the most wicked works of all are those that assail God Almighty and our Divine Lord. Such would be some of the works proscribable under Rules 2 and 11. Second would be those that would assail mankind by striving to justify suicide, or that would teach or endeavour to introduce immoral practices. Such would be the works proscribable under Rules 9 and 10, and some of those proscribable under Rules 14 and 21. Third would be those that would strive to destroy the rights of property, that would endeavour to introduce dangerous systems of education or unjust laws, or that would undermine the foundations of civil authority. Such would be some of the works proscribable under Rule 14.

Eighth.—Is the quantity of the sin committed in thus violating the natural law always proportionate to the wickedness of the work we read? In reply, the species or kind of sin committed in reading a wicked work will depend on the virtue assailed in the work; but the degree of our guilt in reading it or keeping it will depend on the danger or the likelihood of our being led into sin by it. It would be worse, for instance, for the young and imaginative to read immoral works than for the mature, the cold, or unimpres-

[1] *Summa*, I.-II. 73, 3.

sionable; and there will be more danger for the illiterate in reading blasphemous works than for those who are pious and well educated. If there is little or no danger of being led into sin there will be little guilt; and if there is sufficient reason there may be no harm at all in reading or keeping them.

Ninth.—Besides this obligation of the natural law, is there another obligation laid upon us by the present Index legislation? This is a question of very considerable importance. The present Index legislation imposes, of course, an additional obligation to that already imposed by the natural law. The view that those who disregard the proscriptions made by the Sacred Congregation of the Index (which, of course, will be always in accordance with the prescriptions of the present Index legislation), may be free from all sin, has been solemnly condemned in the 8th Proposition of the *Syllabus* of Pius X.

Tenth.—What standard have we for estimating the relative degrees of guilt of acts violating this ecclesiastical law? In reply I should say that the different punishments inflicted in Chapter V., Rules 47, 48, and 49, supply us with the means of estimating the degrees of guilt: as the severity of punishment will be always proportionate to the guilt. The violation of Rule 47 is the gravest sin; the violation of Rule 48 is the second; and the violation of Rule 49 is the third.

Now, returning to the subject-matter of the present Rule, the practical question presents itself: when are we justified in saying that a particular newspaper or periodical is proscribed?

In answering this question we should note that the legislator speaks of two kinds of proscription—proscription by the natural law, and proscription by the ecclesiastical law. We must, accordingly, take cognizance of both.

As regards proscription by the natural law, the answer is easy: any newspaper or periodical, or any issue thereof, is forbidden by the natural law that should be to us the occasion of sin.

As regards proscription by the ecclesiastical law, however, the answer would seem to be more difficult. Some would be inclined to answer this part of the question by assigning a certain number of bad issues—say, two, three, four, or five—beyond which all further issues should be proscribed. They would put those separate issues together into one volume, and weigh them against the Rule, as they would a book. But this manner of procedure would seem not to be correct. No two judges could be got to agree to exactly the same number of issues. Secondly, it would appear, from the end the legislator has had in view, that the separate issues of newspapers and periodicals, taken *singly*, do not fall under the present Rule at all. However, if the newspaper or periodical staff publish a number of issues or a number of articles in book form, the book may be proscribed under the Rule dealing with its subject matter just as a book of any other kind might be. Proscriptions of such kind by local bishops or by the Sacred Congregation of the Index, occur not unfrequently.

No number of issues, therefore, I should say, *taken singly* would suffice to have the newspaper or periodical, as a living organ, proscribed. The end of the present Rule, we should bear in mind, is to preserve the faith and morals of the people from being corrupted by the press. This end is attained by keeping the faithful from reading the publications of bad newspapers and periodicals. Now, the faithful cannot know whether any *particular* issue is bad or not till they have read it; and once they have read it, the end of the present Rule, as far as that issue is concerned, can no longer be attained. Nor can the *future* issues, considered singly, fall under the

present Rule; for what is not blameworthy cannot be condemned, and how can the child unborn be yet guilty of personal sin? To assign a certain number of bad issues, therefore, as the limit of toleration would not seem to be a good way of answering the question under discussion.

It would be well to distinguish the living organ, so to speak, of the newspaper or periodical from its individual issues. The newspaper or periodical may be regarded as a living moral person, having, as it were, personal interests and motives, guided in its publications by a certain policy, and by a certain set of principles, and by reason of its origin having a certain *clientela* to represent. The separate issues, on the other hand, may be regarded as so many utterances made by this moral person. Those separate issues convey the thoughts and feelings of the press, so long as they are read, in much the same way as our words convey our thoughts and feelings to others, so long as they are listened to; when they cease to be read, they are like words spoken in the desert that awaken not even an echo.

Viewed in this light, all difficulties would seem to disappear; the end of the present Rule can be attained with regard to the future issues as well as the past, and we have means of arriving at a practical conclusion. The separate issues may not be guilty as *individuals*, but they shall be guilty because of their origin: in much the same way, if we may compare small things with great, as the child comes forth stained with the sin of its origin. It was thus that the books of Luther had been condemned by the Church even before they were conceived in his mind; and it was thus also that the books of Arius, Nestorius, and Eutyches had been condemned by the Church long before they were given birth. It is in this way that some authors, with all their works, are on the Index. It would appear, therefore, that

it is the *organ* of the newspaper or periodical, and not its *separate issues*, that falls under the present Rule.

Accordingly, should a newspaper or a periodical be proscribed, another staff, or another company, with an entirely new policy and programme, may publish a new paper or periodical under the same name; and, similarly, should a certain newspaper or periodical be proscribed under one name, it could not escape that proscription by merely changing its name.

When, then, can we say that the organ of a newspaper or periodical falls under the proscription of the present Rule? The Rule itself supplies the answer: when it manifests a character antagonistic to religion or morals. If the organ, therefore, of any newspaper or periodical should manifest a character or spirit hostile to any point of the whole area of Christian truth, or to any precept of the entire Christian moral code, it is proscribed by the present Rule.

Regula XXII.

Nemo e Catholicis, praesertim e viris ecclesiasticis in hujusmodi diariis, vel foliis, vel libellis periodicis, quidquam, nisi suadente justa et rationabili causa, publicet.

After having stated in Rule 21 when it is that bad newspapers and periodicals are proscribed by the ecclesiastical and natural laws, the legislator now treats of contributions to the same, and prescribes that no Catholic, and, above all, no priest, is to publish anything in such papers and periodicals unless he be induced to do so by a just and reasonable cause.

The legislator states, however, that a just and reasonable cause may render it lawful for a priest or layman to publish an article in one of those papers or periodicals. It would not be easy to specify what causes would be sufficient; but it

would appear that they must be very grave. Generally speaking, articles in such organs would fail to produce any good effect; for, as the organs lie under the censure of the Church, the articles, though good in themselves, shall be tarnished with the same leprosy. The writer will be disregarded by the genuine supporters of the organ, and regarded with suspicion by Catholics of true spirit. Perhaps even such articles, instead of doing good, would do positive evil; for it might happen that some Catholics, desirous to read the said articles, would be induced to buy the issue on which they should appear, and therein find cockle with the wheat. Finally, there might be a risk that such articles, instead of advancing the Catholic cause, might do it positive injury. Some Catholics, full, perhaps, of more zeal than discretion, might rush into a defence without sufficient previous preparation, and thereby seriously injure the cause they would defend; for, as there is nothing that so weakens the resources of a conquered country, and rivets the chains of slavery so tightly on it, as an unsuccessful revolt, so there is scarcely anything that does so much damage to a good cause as an indifferent defence.

This Rule is simple both in its *form* and its *matter;* neither requires explanation. It may be well, however, to consider the motives that seem to have induced the legislator to frame it. It would seem that one of his motives was to prevent scandal, for many persons would naturally be led to believe that the Catholics and priests who would contribute articles to such papers or periodicals could not be worthy of their name. Another end would seem to have been to save the faithful from falling into *error;* for, seeing Catholics and priests writing for such papers, they would gradually be led to put trust in the principles advocated by such organs. Finally, he may have intended by the present Rule to lessen the circulation of such papers and periodicals,

When the public perceive that those organs speak the ideas and sentiments of none but men of bad character and ruined fortunes, they will gradually be drawn away from reading their publications.

It is, therefore, likely that it would be in accordance with the wish of the legislator that all Catholics and ecclesiastics would abstain almost altogether from inserting articles in such organs; and that should they deem it necessary to enter the lists with any anti-religious periodical or paper, they should select rather some Catholic paper or periodical of good and decent character as an organ to give expression to their ideas.

Chapter IX.

FACULTIES TO READ AND KEEP PROSCRIBED BOOKS.

Regula XXIII.

Libros, sive specialibus, sive hisce Generalibus Decretis proscriptos, ii tantum legere et retinere poterunt, qui a Sede Apostolica, aut ab illis, quibus vices suas delegavit, opportunas fuerint consecuti facultates.

In the foregoing chapters of the present constitution, the legislator has laid down some general Rules, by which certain classes of books shall be forbidden to the entire body of the faithful. He has also stated that when occasion should require it, the Congregation would proscribe by special decrees books submitted to their judgment. But, there was something else needed. It will happen that some of the faithful will require to read and keep in their possession certain proscribed books; it will also happen that certain members of the faithful, and especially ecclesiastical superiors, will be obliged to denounce bad and dangerous books. Now to those two points the legislator devotes the two remaining chapters of Section I. In Chapter IX. he

explains how we are to obtain permission to read proscribed books; and in Chapter X. he states who are bound to denounce bad and dangerous books to ecclesiastical authority.

In Rule 23 the legislator prescribes that no one is to read or retain books proscribed by special decrees, or by the general Rules of the present Constitution, unless he have obtained permission from the Apostolic See, or from those who have delegated power to grant such permission.

There are a few expressions to be explained:—

Legere.—To read a book, as is manifest, is to direct the eyes to the print, and to understand what is written in it. Hence, one will not violate the ecclesiastical law, as contained in this expression, who merely listens to what is read; nor will he who examines the words, without understanding the language.

Retinentes.—In order to violate this term of the law, it is not necessary that the book should belong to oneself, or that one could read it and understand it. Persons who keep the book about them, violate the law, whether the book be their own or not, no matter whether they know how to read it or not.

In this Rule, the legislator mentions two kinds of proscription—proscription by special decrees, and proscription by the present general Rules. A word in explanation: I have already explained in tracing the gradual development of the legislation on the Index, how it became necessary for the Church to condemn bad books in categories or classes. In the early ages of the Church bad books were very few, and those worthy of proscription extremely rare. Individual proscription was, therefore, quite easy and practicable. With the advance of ages, however, the flood of bad literature widened and deepened, as a river proceeding from its source; when the art of printing was introduced everybody

began to write, and the tiny stream became a mighty deluge. Thenceforth, individual proscription was quite impracticable. Accordingly, the Fathers of the Council of Trent threw the bad books into categories, and summarily condemned them. Now, the present Rules do what the Rules of the Council of Trent did: they proscribe in *classes*.

Individual proscription will, however, be sometimes made. It will generally be made by the Congregation of the Index; but the Supreme Pontiff may in exceptional circumstances take the case out of the hands of the Congregation, and pronounce proscription himself in person. All the books individually proscribed are collected and published in a list; and this is the list or index of proscribed books.

By the present Rule, then, we are forbidden to read the books proscribed in a class, as well as those individually proscribed, unless we have obtained permission from competent ecclesiastical authority.

REGULA XXIV.

Concedendis licentiis legendi et retinendi libros quoscumque prohibitos Romani Pontifices Sacram Indicis Congregationem praeposuere. Eadem nihilominus potestate gaudent, tum suprema S. Officii Congregatio, tum Sacra Congregatio de Propaganda Fide, pro regionibus regimini suo subjectis. Pro urbe tantum, haec facultas competit etiam Sacri Palatii Apostolici Magistro.

In Rule 24, the legislator states who have power to grant permission to read and retain proscribed books. The Congregation of the Index can grant permission for the entire Church; the Congregation of the Propaganda for the countries under its jurisdiction; the Master of the Sacred Palace for the City of Rome. Hence a permission from

the Congregation of the Index holds good anywhere; permission from the Propaganda within the countries subject to it; and permission obtained from the Master of the Sacred Palace can be used only within the City of Rome.

Regula XXV.

Episcopi aliique prelati jurisdictione quasi episcopali pollentes, pro singularibus libris, atque in casibus tantum urgentibus, licentiam concedere valent. Quod si iidem generalem a Sede Apostolica impetraverint facultatem, ut fidelibus libros proscriptos legendi retinendique licentiam impertiri valeant, eam nonnisi cum delectu et ex justa et rationabili causa concedant.

In the foregoing Rule it has been stated that the Master of the Sacred Palace, the Congregation of the Propaganda, and the Congregation of the Index, have all of them power to grant permission, to a certain extent, to read and retain proscribed books; hence, arises the question—have bishops power to grant a similar permission? This question is answered by Rule 25: bishops and other prelates having quasi-episcopal jurisdiction have power to grant the said permission, but only in particular cases and in urgent circumstances; if any bishops should have obtained from the Holy See *general faculties* to grant the aforesaid permission to their flocks, they are to be careful to grant it with choice and discretion, and only from a just and reasonable cause.

Eam nonnissi cum delectu . . . concedant.—What are bishops to consider before granting to persons permission to read and keep proscribed books? About what are they to use their *choice* and *discretion*? The answer to this question is supplied us partly from an *Instruction* of Clement VIII. (which was part of the old Index legislation) and partly from a document published by the Congregation of the

Index subsequent to the publication of the present Leonine Constitution:—

Clementine Instruction.	Congregation of the Index.
Qui[1] quidem gratis eam[2] et scripto manu sua subsignato tribuent de triennio in triennium renovandam; ea in primis adhibita consideratione *ut nonnisi viris dignis, ac pietate et doctrina conspicuis cum delectu* ejusmodi licentiam concedant; iis autem in primis quorum studia utilitati publicae et Sanctae Catholicae Ecclesiae usui esse compertum habuerint.	Quamobrem concedere possis *viris dumtaxat probis eruditisque* licentiam legendi retinendique libros a Sancta Sede Apostolica prohibitos quoscumque (et ephemerides), *iis exceptis qui haeresim vel schisma propugnent, aut ipsa religionis fundamenta evertunt,* quorum lectionem iis tantum permittere valeas *quos doctrina, pietate, fideique zelo* praestantiores esse perspectum habeas; *librorum vero de obscoenis ex professo tractantium lectionem nemini permittas.*

I have already stated, in the Introduction, that should we meet with any word of phrase in the present Constitution of doubtful meaning, we were to refer to former legislation on the same subject wherein the same words occurred, and endeavour to discover therefrom the meaning of the words in the present legislation. Let us here apply that principle to the words *nonnisi cum delectu . . . concedant.* Those words occur in the Instruction of Clement VIII. Although Leo XIII. has annulled and abrogated this Clementine Instruction, yet he has not changed the natural meaning of the words employed therein. Hence we can determine almost to a certainty the object of the choice (*delectus*) spoken of in the present Rule from this Clementine Instruction. Now, Clement VIII. almost defines the object of the choice: "*viri digni ac pietate et doctrina conspicui.*"

Turning now to the publication of the Congregation of the

[1] Qui = Episcopi et Magister S. Palatii.

[2] Eam = licentiam legendi ac retinendi libros juxta Regulas Tridentinas proscriptos.

Index, we find a still more definite answer to our question. We see that books proscribed by the present Leonine Constitution are therein divided into three classes—1. Those proscribed under Rule 9: "*Qui res lascivas seu obscenas ex professo tractant.*" 2. Those proscribed under Rule 2: "*Libri qui haeresim vel schisma propugnent aut ipsa religionis fundamenta evertunt.*" 3. Those proscribed by the remaining Rules. The Sacred Congregation specifies the qualities to be required in the persons seeking permission to read or keep books belonging to any of those classes. With regard to books treating *ex professo* of licentious things, bishops are to grant permission to no person. With regard to books condemned under Rule 2, they are to grant permission to those only who are remarkable for their *learning*, their *piety*, and their *zeal for the faith*. Persons requesting permission to read or keep in their possession books condemned under the remaining Rules must, at least, be *learned* and of *good character*.

Since the power of bishops to grant permission to read and keep proscribed books is *delegated*, and not *ordinary*, the conditions to which it is subject must be carefully observed.

REGULA XXVI.

Omnes qui facultatem apostolicam consecuti sunt legendi et retinendi libros prohibitos, nequeunt ideo legere et retinere libros quoslibet, aut ephemerides ab Ordinariis locorum proscriptas, nisi eis in apostolico indulto expressa facta fuerit potestas legendi et retinendi libros a quobuscumque damnatos. Meminerint insuper qui licentiam legendi libros prohibitos obtinuerunt, gravi se praecepto teneri hujusmodi libros ita custodire, ut ad aliorum manus non perveniant.

Rule 26 states that should anyone have obtained permission from the Apostolic See to read and keep proscribed books, he is not thereby entitled to read and keep proscribed books or newspapers proscribed by his own bishop—unless

there have been granted in the Apostolic Indult permission to read and keep books no matter by whom proscribed. Persons, moreover, who have obtained such a universal permission are carefully to bear in mind that they are bound *sub grave* to so keep such books that they cannot fall into the hands of others.

In this Rule the important point is clearly implied—that besides the books and papers on the Index proscribed by the Sacred Congregation of the Index, there may be also books and papers individually proscribed by a local bishop. However, as the Sacred Congregation is guided by the present Rules, so bishops must also be guided by them, neither exceeding them in rigour, nor relaxing them in any way.

The latter part of this Rule may be said to refer in a certain way to the management of libraries. It would be well to have a section of the library set apart for proscribed books, and to give no one access to it, who had not the required permission.

Chapter X.

The Denunciation of Bad Books.

Regula XXVII.

Quamvis catholicorum omnium sit, maxime eorum qui doctrina praevalent, perniciosos libros Episcopis aut Sedi Apostolicae denunciare; id tamen speciali titulo pertinet ad Nunctios, Delegatos Apostolicos, locorum Ordinarios, atque Rectores Universitatum doctrinae laude florentium.

After having treated in the foregoing chapter, of faculties to grant permission to read and retain proscribed books, the legislator now turns his attention to the *denunciation* of bad and dangerous ones. With regard to the denunciation of them he does three things: 1°. He states *who* are to de-

nounce them. 2°. He explains *how* they are to be denounced 3°. He indicates in general terms what books bishops are to proscribe themselves, and what ones they are to forward to the Congregation of the Index for examination. To each of those three points he devotes a Rule.

In Rule 27, he states that although all Catholics, and especially those who excel in learning, are expected to denounce bad and dangerous books to their bishops, or to the Apostolic See; yet papal nuncios, apostolic delegates, bishops, and rectors of universities, are under a special obligation to do so. Of course, it is not of books already on the Index of Proscribed Books that there is question (for those have already been sufficiently made known), but to books that have not yet been individually and formally condemned. It is to be remarked that the terms *Apostolic See* imply—the Congregation of the Supreme Inquisition, the Congregation of the Index, and the Congregation of the Propaganda.

The legislator says that it is the part of *all* Catholics to denounce bad books; all, however, are not *equally* bound, Catholics in general are bound to denounce bad books only by the virtue of charity; and hence they are bound only *sub leve*—except in very exceptional circumstances. Papal nuncios, apostolic delegates, and rectors of universities, are, moreover, bound by the virtue of justice; and hence they are usually bound *sub grave* to denounce bad books.

By reason of having used the adjectival phrase *doctrinae laude florentium*, we are not to suppose that the legislator has cast a slur on *some* universities. Adjectives generally, indeed, restrict the extension of their subject; but sometimes they merely define or explain its meaning. And it is in this latter way that the legislator has used the said phrase in the present context: all universities are supposed to be focuses of talent and learning.

REGULA XXVIII.

Expedit ut in pravorum librorum denunciatione non solum libri titulus indicetur, sed etiam, quoad fieri potest, causae exponantur ob quas liber censura dignus existimatur. Iis autem ad quos denunciatio defertur, sanctum erit denunciantium nomina secreta servare.

Rule 27 determines *who* are to denounce bad books.

Rule 28 determines *how* denunciation is to be made. It states that in denouncing bad books it will be useful to indicate not only the title of the book, but also the reasons why the book is considered worthy of proscription. Those to whom the denunciation is made are strictly bound to keep the names of the denouncers secret.

The present Rule is nothing more than a repetition of some of the instructions given by Benedict XIV. in his Bull *Sollicita ac Provida*, already explained. It imposes no obligation ; it merely states what would be useful and convenient for the expedite transaction of business.

Any person at all, then, may denounce a bad book. The denunciation is made either to one's own bishop or to Rome. If to Rome, it is directed generally to the Prefect of the Congregation of the Index or to his Secretary. It may, however, be made to the Prefect of the Congregation of the supreme Inquisition ; or, if the denouncer belong to a country under the administration of the Propaganda, it may be made to the Prefect of that Congregation. Under extraordinary circumstances it may be addressed even to the Supreme Pontiff himself.

In denouncing a book it will be useful both to the denouncer himself, and to the *consultores* of the Congregation, to state the reasons why it is deemed worthy of proscription. It will be useful to the denouncer : because he will thus show the members of the Congregation that he has been led to make the denunciation neither from personal motives nor from flimsy reasons. It would, indeed, be a

strange thing for anyone to denounce a book unless he were able to show that he was committing no calumny against the author by doing so. It will also be useful to the *consultores* of the Congregation : for it will make known to them the general tone of the book, and, perhaps, unfold to them the character and history of the author, which will be of the greatest assistance to them in passing a just criticism on the work.

Authors, however, are not to be uneasy because their books must stand solitary and alone on their own merits before the bar of the Congregation—with no one to befriend them or plead their cause. Benedict XIV. would, indeed, allow a Catholic author of good repute to choose a champion to plead the cause of his book ; but even though he should not choose one, he is not to be afraid of unjust treatment. The report forwarded by the denouncer will go very short in securing the proscription of the book. When the book is received, the Secretary of the Congregation selects two *consultores*, and with them he carefully examines the book, to see if there be any foundation for the charges alleged against it. If they discover that there is really foundation for the charges, the book is given for examination and criticism to a *consultor* skilled in the matter of which it treats. The book is not allowed to pass the preparatory Congregation until two adverse decisions have been pronounced against it by two different sets of *consultores*.[1] Every precaution, therefore, is taken in order to arrive at a correct and impartial judgment.

Finally, the denouncers are not to be afraid that their names will be divulged ; for the members of the Congregation are strictly bound to keep them a dead secret.

[1] Cf. *Sollicita ac Provida*, § 5.

REGULA XXIX.

Ordinarii etiam tamquam Delegati Sedis Apostolicae, libros aliaque scripta noxia in sua Dioecesi edita vel diffusa proscribere, et e manibus fidelium auferre studeant. Ad Apostolicum judicium ea deferant opera vel scripta quae subtilius examen exigunt, vel in quibus ad salutarem effectum consequendum, supremae auctoritatis sententia requiri videatur.

Rule 29 may be regarded as one of the key-stones of the present Leonine Constitution, for it applies to the government of each diocese the entire legislation on the Index. It prescribes that bishops—not only as ordinaries, but also as delegates of the Apostolic See—are to be careful to proscribe and to remove from the hands of the faithful bad books and other dangerous kinds of literature published or circulated through their dioceses. They are, however, to remit to the judgment of the Holy See, works and writings that require a more than usually careful examination, as well as those that require the declaration of supreme authority in order that salutary effects ensue.

The present Rule, it will be remarked, brings home to each diocese the entire Leonine Constitution. It applies general laws to the government of limited areas; the laws made for the universal Church are brought to bear on the internal management of each diocese. Now, circumstances will differ widely in the various dioceses throughout the Catholic world; hence the application of the present Constitution to the affairs of each diocese will occasionally demand the exercise of consummate prudence.

"*Prudentia*," says St. Augustine, "*est cognitio rerum appetendarum et fugiendarum*";[1] we must know what we are to seek, and what we are to avoid, before we can be said to be prudent. The present Rule, then, which is intended to be, as it were, a rule of prudence, does two things—it states

[1] Apud S. Thomas, II.-II. 47, 1.

what is to be aimed at and what is to be avoided. It is accordingly, composed of two main parts; and the second part is again subdivided into two minor parts. Its division may be thus graphically shown :—

I.—Ordinarii etiam tamquam Delegati Sedis Apostolicae libros, aliaque scripta noxia in sua Dioecesi edita vel diffusa proscribere et e manibus fidelium auferre studeant.

II.—(*a*) Ad Apostolicum judicium ea deferant opera vel scripta quae subtilius examen exigunt.

(*b*) *Ea quoque deferant*, in quibus ad salutarem effectum consequendum, supremae auctoritatis sententia requiri videatur.

I will, therefore, first treat of the exercise of episcopal proscription; and, secondly, of the cases which must be submitted to the judgment of the Apostolic See.

§ 1.

Bishops, it would appear have always had power to examine and condemn bad books within the boundaries of their dioceses. This is evident in the first place from the history of the Index, and from the constant exercise of this power in every country, and in every age of the Church, We read for instance, that Theophilus, Bishop of Alexandria, condemned the works of Origen in 385, and did so even against the will of his suffragan bishops. In 1121, the bishops assembled at the Synod of Suesson, condemned the works of Abelard, before they were condemned by the universal voice of the Church; in 1204, the Synod of Paris condemned the works of David a Dinando: in 1382, the heretical works of Wyclif were condemned by the English bishops; and, omitting all further instances, have not bishops, even since the publication of the present Leonine Constitution, more than once condemned bad books and newspapers without having recourse to the Holy See?

What is the *nature* of this power possessed by bishops? Is it ordinary or delegated? It is likely that

bishops have both ordinary and delegated power to condemn and proscribe bad books within their dioceses. How can we regard bishops—who are placed as scouts (ἐπίσκοπος) on the watch-towers of the Church—as supplied with suitable weapons to repel the foe, unless they have power of their own, to safeguard the minds of the faithful from being corrupted and led astray by dangerous literature? Bishops, then, have both ordinary and delegated powers to condemn and proscribe bad and dangerous publications; and, hence, the legislator in the present Rule joins *ordinarii* and *Delegati Sedis Apostolicae* with a *cumulative* conjunction: "Ordinarii *etiam* tamquam Delegati Sedis Apostolicae."

Now, what is the *specific object* of this episcopal power? Or, in other words, what kind of books or writings can bishops proscribe? It would appear that bishops have not, by reason of their office, power to judge and proscribe every class of bad literature. P. Arndt, S.J., thus writes on the ordinary power of bishops to proscribe bad books:—

> Attamem non tanta episcopo competit potestas ut quasi locum Concilii universalis, vel Romani Pontificis in judicando doctrinas obtineat. Non potest ergo ipse librum prohibere *ob propositiones, quas Ecclesia non damnavit, nec rejecit. Dubiae proinde propositiones quae tamen ab Ecclesia tolerantur non possunt prohibitionem justificare.* Verum cum propositiones dubiae proponuntur, *quae quam proxime ad damnatas sententias accedunt, Episcopo fas est librum in sua dioecesi vetare.*[1]

There is a limit, then, to the ordinary power of bishops to proscribe bad books; their power does not extend to all classes of such books. Bishops are as stewards placed over a department of the king's household; or as sentinels placed on high to watch and guard a portion of the flock of Christ. As subordinate stewards, they cannot speak for the management of the entire household: nor, as merely sentinels, can they issue orders in the name of the supreme leader. They

[1] P. Arndt, *De libris prohibitis*, p. 313.

can, however, announce to those subject to them the wishes and the mandates of him who holds supreme power, and enforce obedience to them.

Accordingly, as bishops cannot speak for the universal Church, nor issue commands in the name of the Supreme Pontiff, so they cannot proscribe a book for propositions that have never been condemned by the Church, nor for those that have been tolerated by her. As, however, they can repeat the decision of the universal Church, or of the Supreme Pontiff, and force their subjects to obey them, so they may condem a book for propositions that have already received the condemnation of the Church, or that are very closely connected with such.

The *delegated* power of bishops to proscribe bad books seems to be co-extensive with their ordinary power. This is evident from a letter of Pius IX., addressed to the bishops of the entire Church through the medium of the Congregation of the Index in 1873:—

Quod si omnis ab Episcopis est adhibenda cura ut docti probatique utriusque cleri viri, verbis ac scriptis sana doctrina refertis, errores publice grassantes impugnent atque confodiant, pariter ab iisdem non est praetereundum examen operum videlicet et ephemeridum *quae fidem moresque directe impetunt.*[1]

With what *dispositions* are bishops to enter on an examination of books subject to their judgment? Benedict XIV. gave the four following Rules of guidance to the "consultores" of the Congregation of the Index:—

1. That they were to bear in mind that their duty was—not to strive by every means to procure the proscription of the books submitted to them for examination—but to give the Sacred Congregation a faithful account of their contents after a careful reading.

2. That care should be taken that the book be given to a consultor skilled in the matter of which the book treats. If anyone should discover that from the peculiar nature of the book, he is unable to pass a

[1] Cf. Pennacchi, p. 189.

just criticism on it, he is to bear in mind that he is not free from sin if he does not make this known at once to the Sacred Congregation.

3. In passing judgment on the book, the mind must be free from every prejudice. The consultores are to bear in mind that they are to drive far off the sympathies of their country, of their race, of the school wherein they were trained, and of the institute to which they belong. They are to be guided by the dogmas of the Church, and by the common teaching of Catholics, as contained in the decrees of the general councils, the Constitutions of the Roman Pontiffs, and in the traditions of the Fathers.

4. They are to remember that a proper judgment cannot be formed as to the mind and meaning of the author unless the book is read through; for it often happens that different parts of a book throw light on one another, and that an author expresses himself more clearly in one place than in another.

If one wishes to judge a book as Benedict XIV. would have him do it, it is not enough for him to have good and impartial dispositions: he must also have correct premises to work on. The judgment passed on a book, or on a writing of any kind, is, as it were, a conclusion drawn from the two premises of a syllogism. In order to make up this syllogism we take in one hand the *Sollicita ac Provida* of Benedict XIV., together with the present Leonine Constitution; and from them we get our major premise. We take the book in the other hand, and from it we get our minor premise; we ourselves are to be accountable for the conclusion.

Having now treated of the *existence*, the *nature*, and the *object* of episcopal power to judge and condemn bad books, a question of some importance presents itself for solution, with regard to the *extent* of the binding force of episcopal proscription: Are regulars bound by episcopal proscription? or have bishops power to enforce diocesan proscription in the monasteries and convents that may exist within their dioceses?

This question is nothing else than a particular phase of the question regarding the relations between regulars and episcopal jurisdiction, and as the limits of episcopal jurisdiction with regard to the regulars have not been in all matters

clearly defined, it is only natural to expect a difference of opinion on this question.

P. Vermeersch, S.J., and l'Abbé Pèries hold that regulars are exempt from diocesan proscription; and accordingly that bishops cannot enforce their proscription within the religious houses that may exist in their diocese. P. Vermeersch, S.J., thus writes:—

Habent enim regulares proprie dicti (et etiam quarumdam Congregationum alumni, v.g., C. S. S. Redemptoris) generale privilegium exemptionis. Inter exceptiones autem factas huic privilegio, quas tamen diligentissima cura collegerunt auctores, nullibi indicatur praesens casus. Nec materiam istam praetermiserunt, cum disserte doceant regulares quoad praeviam censuram subdi episcopis. [1]

P. Vermeersch, S.J., would, therefore, argue thus:—If regulars enjoy general exemption from episcopal jurisdiction, we are not to suppose them subject to episcopal jurisdiction in any particular case that may turn up, unless we have positive proof to that effect; but in the present case we have no such positive proof, because, although canonists enumerate a great many points in which regulars are subject to episcopal jurisdiction, yet they omit the present point. According to P. Vermeersch, then, the original jurisdiction over religious orders has been completely emptied from the hands of bishops into the Holy See by the privilege of general exemption, and we are not to suppose that any has been poured back again, except what we have positive proof for.

And l'Abbé Pèries writes to the same effect:—

Les Réguliers exempts ne sont pas obligés, de tenir compte des condemnations des livres ou des journaux faites par l'evêque du diocèse, où ils resident puisqu' ils ne sont pas ses subjets. [2]

P. Pennacchi, however, strenuously maintains that regulars are bound by diocesan proscription just as seculars. He

[1] Page 30. [2] Page 155.

looks at *exemption* from another side, and says, that *originally* religious orders were all subject to episcopal jurisdiction, and that it was only gradually that they were released therefrom. Accordingly, he found a major premise the direct contradictory of that of P. Vermeersch and l'Abbé Pèries—that when any particular case turns up we are to suppose regulars *subject* to episcopal jurisdiction, unless we have positive proof to the contrary; but in the present case we have no such proof; therefore, it would appear that regulars are bound by diocesan proscription. P. Pennacchi sustains his opinion with arguments founded on decrees passed at the Council of Trent, on the Bull of Pius IX., *Inter Multiplices*, and on the present Leonine Constitution; he, moreover, alleges that before coming to a final decision on this question, he consulted several canonists and some religious superiors in Rome, and that it was the belief of all that regulars were not exempt from episcopal proscription.[1] This opinion seems to be the best: for it would be a strange thing, to say the least of it (apart altogether from the scandal that would be caused and the hindrance it would offer to the effective operation of episcopal proscription), that any religious community should be free to act directly contrary to a particular application of the present Rules, for such, in fact, would be an act of episcopal proscription.

In explanation, then, I should say that there are three questions that must carefully be distinguished one from the other—1. The present question of the extent of the binding force of diocesan proscription. 2. The general relations existing between regulars properly so called and episcopal jurisdiction. 3. The nature of general exemption. The solutions of these questions depend one from the other. We

[1] Page 193.

cannot well solve the present question of diocesan proscription without determining in some way the general relations between regulars and episcopal jurisdiction, and we cannot know what those relations are unless we know the nature of exemption.

All who follow a religious life must be subject, in one way or another, to a religious superior, for religion implies the severance of the bonds that might keep us separate from God—wealth, carnal pleasure, and self-will.[1] Be he, therefore, a general of a religious order, a provincial, a lay-brother, or a hermit in the desert, he cannot be said to belong to the religious state unless he is subject to some religious superior.

Religious orders grow up, like tender plants, in the midst of some diocese. By the bishop they are nursed and fostered and sheltered from attack until they are strong enough to withstand resistance. Accordingly to the bishop they become subject by reason of their origin. This subjection may be of different kinds. Sometimes the bishop may not only be patron, but also religious superior; and while this state of things lasts the members of the community are subject to the bishop by a double bond—by the vow of obedience and by ecclesiastical law. Sometimes the bishop will be patron, but not religious superior; and then the members are bound under his jurisdiction only by ecclesiastical law. Lastly, sometimes the rules of the community rest on nothing higher than episcopal sanction; the bishop may alter or add to them as he deems fit. Now, while such is the state of the religious congregation, there can be no doubt with regard to diocesan proscription. As the whole institute is under episcopal supervision, so all the members are bound by episcopal proscription.

Matters, however, do not always remain that way. As

[1] Cf. St. Thomas, II.-II. 186, 5.

the religious congregation grows in strength and size, the Holy See begins to cast its eyes on it. The rules of the institute are taken and examined, and after a time, perhaps, solemnly approved of. Episcopal jurisdiction over the congregation is thereby considerably restricted. Bishops are, in a certain way, the lieutenants of the Supreme Pontiff; they hold his place within limited areas. As long as the religious congregation rested merely on episcopal approbation, its management lay in the hands of the bishop. When there acceded the approbation of the Holy See, its management fell from his hands into the hands of the Supreme Pontiff. As much as the Holy See sets its seal on, it takes to itself. Before the approbation of the Holy See, bishops might have altered the rules of the institute as they thought prudent; after the approbation of the Holy See, they can no more interfere with them than an inferior officer can countermand the orders of the supreme commander. As officers, however, they can make the rounds, and see that the rules approved of by the Holy See are faithfully observed.

Although religious congregations are released from episcopal jurisdiction by reason of the approbation of the Holy See, yet they are not thereby completely released; the amount of release will be measured by the nature of the approbation and the amount of special privileges. At present it would appear that there is no religious congregation entirely released from episcopal jurisdiction, for in the 4th, 24th, and 25th Sessions of the Council of Trent we read several cases in which regulars are bound under episcopal jurisdiction, and canonists have collected many more such cases from particular declarations of the Holy See.

Summing up, then, it would appear that all religious congregations are, by reason of their origin, subject to episcopal jurisdiction, except in so far as they have been expressly released therefrom by the Holy See; but they have not

been expressly released as regards the publication and use of books. Therefore, it would seem that they are subject to diocesan proscription.

Another question suggested by this Rule is: Can religious superiors proscribe books on the members of their communities? P. Vermeersch, S.J., is of opinion that they can, for, speaking of the power of bishops to proscribe books and newspapers on their subjects, he writes:[1] "*Eadem facultas ut patet, competit Praelato regulari quoad suos subditos.*" P. Pennacchi, however, deems it well to make a distinction. If there be question of proscription based on the rules of the institute, and enforced through the vow of obedience, then it would appear that religious superiors have the said power. If, however, there be question of proscription based on the legislation of the Index, it would appear that they have no such power, because neither in the present Leonine Constitution, nor in the *Sollicita ac Provida* of Benedict XIV., do we find the slightest trace of it.

§ 2.

In the second part of the present Rule two cases are stated wherein the bishop is to refrain from proscription—when the book requires a more than usually careful examination, and when the judgment of supreme authority is required in order that salutary effects may ensue. Attention, therefore, is called to the *examination* of the book, and to the *execution* of proscription. Sometimes it will be very difficult for a bishop to know whether a book really deserves proscription or not, and sometimes, although it be as clear as noonday that the book deserves condemnation, yet it may be doubtful whether good results could ensue from episcopal proscription or not; in such cases the book is to be remitted to the judgment of the Holy See.

[1] Page 29.

SECTION II.

THE CENSORSHIP OF BOOKS.

Chapter I.

THOSE WHO HAVE THE RIGHT OF CENSORSHIP.

Regula XXX.

Penes quos potestas sit sacrorum bibliorum editiones et versiones adprobare vel permittere ex eis liquet, quae supra (n. 7) statuta sunt.

The Rules of Section I. of the present legislation on the Index, as will have been seen, treat of the *prohibition* of books; the Rules of Section II. treat for the most part of the *censure* of books. I should here state at the outset that *censura*, as employed throughout Section II., has a technical meaning: it is not to be understood as signifying a spiritual punishment inflicted on culprits to secure their emendation; but it is to be understood as meaning a judgment (*censeo*, *censura*) passed as to whether a book is worthy of proscription or not.

A certain relation exists between the proscription of a book and its censure:—*censure* has reference to books about to be published, proscription refers to books already published; proscription affects especially the reading public, censure affects especially the author and the book itself. A book that has been proscribed is forbidden to be read, bought, or retained; a book that has had an adverse *censure* is forbidden to be published.

In Section II. the legislator treats mainly of three subjects. First, he treats of the *censure* of books; second, he explains in particular the obligations of printers and publishers; third, he inflicts certain penalties for the violation of the present Rules of the Index.

In treating of the *censure* of books, three things were

required to be done :—1° To explain *who* were to be the Censors. 2° To explain *how* they were to pass judgment. 3° To state *what* books were to be subjected to their judgment. The analysis of the entire section may be thus graphically shown :—

Section II.
- I. Censure of books
  - (*a*) *Who* are the censors.
  - (*b*) *How* they are to judge.
  - (*c*) *What* they are to judge.
- II. Duties of publishers and printers.
- III. Various punishments to be inflicted for violation of the Rules.

When an author is about to publish a work, what he is first to do is to decide whether or not he is required by the present legislation on the Index to submit it to the *censure* of ecclesiastical authority ; if he finds that he is required to submit it to ecclesiastical *censure*, he ought, in the next place, look about him and see to *whom* he is to submit it. Now, the present Chapter I. will direct him in this choice.

In Rule 30, the legislator calls our attention to what has already been prescribed under Rule 7. When treating of Rule 7, we remarked that there are two sources of approbation for editions and translations of the Bible—the Holy See and the bishop. Sometimes the approbation of the Holy See will be required, and sometimes the bishop will be able to give the desired approbation. If the edition or translation is to be published naked of all comment or illustration, the approbation of the Holy See will be required ; if, however, the edition or translation is to be illustrated with notes and explanations taken from the writings of the Fathers, and from learned and approved Catholic authors,—then the bishop has power to grant approbation. When we speak of the approbation of the Holy See, we do not of necessity mean approbation given by the Holy Father, but that given by either the Congregation of the Index or of the Holy Office.

Regula XXXI.

Libros ab Apostolica Sede proscriptos nemo audeat iterum in lucem edere; quod si ex gravi et rationabili causa, singularis aliqua exceptio hac in re admittenda videatur, id nunquam fiet nisi obtenta prius Sacrae Indicis Congregationis licentia, servatisque conditionibus ab ea praescriptis.

Rule 31 prescribes that no one shall dare to republish a book that has been proscribed by the Apostolic See; if, however, any grave or reasonable cause should arise why a new edition of any such book should be published, the Congregation of the Index is to be consulted; and the edition is not to be published before the approbation of the Sacred Congregation has been obtained, and unless all the conditions prescribed by it are observed.

The present Rule was highly necessary in order that good results might ensue from the present legislation; for what good could ensue from the proscription of a book if a new edition of it might forthwith be issued with impunity?

It is, however, to be remarked that when the legislator speaks of books proscribed by the Apostolic See (*Apostolica Sede proscriptos*), he does not mean books proscribed under any *class* by any of the present Rules; but he means books proscribed *individually* by special decrees. Generally speaking, a certain amount of doubt may reasonably be said to exist, as to whether any particular book falls under the proscription of any particular Rule or not. Now, no person's liberty is to be restrained by a doubtful law; and much less can a severe penalty be with justice inflicted on him, because of the doubtful violation of a law. Hence it would appear that an author may publish a new edition of a book which has not been *individually* proscribed by special decree, or that is not contained in the Index of proscribed books.

The question may be asked: Whether a new edition of a work proscribed by a bishop within his diocese may be

published? In reply, I should say that as we are to interpret the present legislation strictly throughout, and as it is books proscribed by the Holy See, and not by bishops, that there is here mention of, a new edition of such a book might be published. However, it is likely that the publisher will find it very hard to find a bishop to grant approbation to such a work, and, accordingly, it will labour under the penalties, of which there will be mention when treating of Rule 41, arising from the want of ecclesiastical approbation.

If any just and reasonable cause should arise why a new edition of a book that has incurred individual proscription should be published the Congregation of the Index will not be slow to grant the requisite permission. Some such cases have actually occurred in the history of the Index. Thus, for instance, Aristotle's *Metaphysics* were provisionally proscribed by Gregory IX., in 1231, *donec examinarentur*, though soon after St. Thomas was publicly expounding them, and subsequently embodied them in his *Summa*. The book of Galileo, *Dialogus duorum maximorum systematum*, was proscribed by the Congregation of the Inquisition in 1633; yet, in 1822, a new edition of it was published with the express permission of the Holy See. The great work of Copernicus, *De Revolutionibus orbium* was proscribed in 1616, and still a new edition of it was afterwards published under the special patronage of one of the Roman Cardinals. It is stated that one of the works of Card. Bellarmine had been at one time condemned; and, as a final instance of the vicissitudes of some books, we read that the *Summa* of St. Thomas lay for some short time under the proscription of a certain Archbishop of Paris.

What occurred then in the past may occur in the future; books which may be considered positively injurious to one generation may come to be regarded as of the greatest service

to a succeeding generation; and so although *individually* proscribed may be republished with the permission of the Congregation of the Index.

Regula XXXII.

Quae ad causas Beatificationum et Canonizationum Servorum Dei utcumque pertinent, absque beneplacito Congregationis Sacris Ritibus tuendis praepositae, publicari nequeunt.

Rule 32 prescribes that no book appertaining in any way to the *causes* of the Beatification or the Canonization of any of the Servants of God can be published without the approbation of the Congregation of Rites.

Ad causas utcumque pertinent: The words *ad causas* require explanation. The terms do not refer to what may have been done previous to the introduction of the *cause* before the Sacred Congregation; nor do they refer to books published after the Servant of God has been beatified or canonized. For, as we say, that an advocate pleads the *cause* of his client from the moment that the judge sits on the bench, so also we say that the *cause* of a Servant God is examined from the moment that the Congregation of Rites begins its sessions on it. Now, the object of the present Rule is —all books treating of the Servant of God, and which are to be published whilst his *cause* is under the consideration of the Sacred Congregation. From the moment of the first session to the final declaration, all literature treating of the *cause* of the Servant of God is under the control of the Congregation of Rites, and not of the Congregation of the Index. For such literature, therefore, the approval of the Congregation of Rites and not of the Index is to be obtained. After the declaration has been pronounced, however, matters again pass into the hands of the Congregation of the Index. Hence, it may be remarked that all books that treat of the

miracles performed by the Servants of God, and which are to be published previous to the introduction of their *cause*, instead of falling under the present Rule, come under Rule 13, and may be published as explained under that Rule, *cum legitima superiorum ecclesiae licentia*; so also books treating of the miracles, the visions, or the prophesies of the Servants of God, published after judgment has been pronounced by the Sacred Congregation, will come under Rule 13, and may be published with the permission of the same ecclesiastical authority.

Regula XXXIII.

Idem dicendum de Collectionibus Decretorum singularum Romanarum Congregationum: hae nimirum Collectiones edi nequeant, nisi obtenta prius licentia, et servatis conditionibus a moderatoribus uniuscujusque Congregationis praescriptis.

As the Congregation of Rites has the control of all literature appertaining to the transaction of its own business, so, also, have all the other Sacred Congregations control of the literature referring to their several spheres of action. The present Rule prescribes that no one may publish a book, containing the decrees of any of the Sacred Congregations, without the permission of the Superiors of the Congregation in question, and without the fulfilment of the conditions prescribed.

The end of this Rule has been to save the faithful from being led into error by false and spurious declarations of the Sacred Congregations. It has happened more than once that spurious decrees have been published and employed to sustain erroneous doctrines. To preclude any such possibility for the future, all publishers are required by the present Rule to submit all collections of decrees to the revision of the Superiors of the Congregation by which they have been passed.

It is to be remarked that there is question here of *collections*, and not of *individual* decrees; hence if an author cites, in the composition of a book, a number of decrees of the Sacred Congregation, he is not thereby obliged to submit his book to the revision and examination of the several Congregations.

REGULA XXXIV.

Vicarii et Missionarii Apostolici Decreta Sacrae Congregationis Propaganda Fidei praepositae de libris edendis fideliter servent.

Rule 34 prescribes that Vicars Apostolic and Apostolic Missionaries are to faithfully observe the decrees of the Congregation of the Propaganda that refer to the publication of books.

Vicarii et Missionarii Apostolici.—A word in explanation of those terms: by the words *Vicarii et Missionarii Apostolici* we are not to understand Vicars in countries that are not under the jurisdiction of the Propaganda; nor are we to understand by them Vicars in countries in which the Ecclesiastical Hierarchy has already been established; nor, finally, are we to apply them to such priests or prelates as have obtained those names as titles of honour, but who are not actually engaged in missionary work under the Congregation of the Propaganda. By *Vicarii Apostolici* we are to understand those priests or prelates that preside in the name of the Propaganda over a determined district, in countries under the rule of infidels, heretics, or schismatics; and by *Missionarii Apostolici* we are to understand those that have been sent by the Propaganda to the aforesaid districts, and who exercise their ministry under the guidance and jurisdiction of the *Vicarii Apostolici.*

For such ecclesiastics the legislator has made a special regulation in the present Rule; it is not to a bishop that they are to apply for approbation of their books, nor to the

Congregation of the Index, but to the Congregation of the Propaganda; and they must observe the regulations which that Congregation has made for its missionaries with regard to the publication of books.

Now, what are the regulations that the Propaganda has made with regard to publication of books? The regulations that it has made may be found in the *Collectanea* of its decrees (pag. 765 *et seqq.*[1]). As an instance, I here give one of the most important of those regulations:—

> The Sacred Congregation, moved by just causes, has decided, after deliberation, that no Missionary Apostolic, no matter what be his grade, condition, eminence, or religious state, shall henceforth, under any pretext, publish either himself or through others, any work of his own or of any other, without the express permission of the Sacred Congregation given in writing *in forma solita;* and this is enjoined under penalty of privation of office, of all voice, active and passive, of suppression of the same work, and of excommunication *latae sententiae ipso facto incurrendae ac Soli SSmo. D.N. reservatae.* The Sacred Congregation also declares to each and all the aforesaid persons, that in case they obtain the said permission they are bound to have it printed, at the beginning of the work, under the same penalties, notwithstanding any privileges, faculties, or licence which may have been given or conceded even by word of mouth; for all such privileges, etc., shall be considered and regarded as revoked by the present decree. (Dec. 6, 1655.)[2]

It would appear from an examination of the decrees, that the Propaganda has made for its missionaries with regard to the publication of books, that they do not require the permission or approbation of the Congregation for small books or pamphlets, such as catechisms, little books of instruction, or small collections of prayers; for such works the approbation of a bishop is enough.[3] Moreover, it would appear from the end or scope of the present legislation on the Index, that they need not submit to any ecclesiastical authority such works as grammars, lexicons, or geographies, which have no bearing whatsoever on faith or morals.

[1] Cf P. Pennacchi, pag. 208.
[2] Cf. *Il Monitore*, pag. 74.
[3] Decretum die 28 Decembris, 1770; apud P. Pennacchi, pag. 209.

REGULA XXXV.

Approbatio librorum quorum censura praesentium Decretorum vi Apostolicae Sedi vel Romanis Congregationibus non reservatur, pertinet ad Ordinarium loci in quo publici juris fiunt.

Rule 35 is a Rule of very considerable importance. It prescribes that all books which are not by virtue of the present Leonine Rules required to be submitted to the *censure* of the Apostolic See, or to that of the Roman Congregations, are to be submitted to the *censure* of the bishop in whose diocese they are to be published.

In interpreting this Rule, two things are required to be done:—1°. To determine which books are to be submitted to the Apostolic See and to the Roman Congregations; 2.° to determine to *what* bishop we are to apply for approbation for the remaining classes of books.

§ 1.

In answer to the first question, I should say that, in accordance with the tenor of the present legislation, the following classes of books are outside the control of bishops, and must be submitted to the Roman authorities.

1°. All vernacular translations and editions of the Bible, that have neither note nor comment, must be submitted to the Apostolic See, as explained under Rule 7.

2°. All new editions, or even translations, of a work that has been condemned individually by special decree by the Holy See, must be submitted to the *censure* of the Congregation of the Index, as explained under Rule 31.

3°. All works treating of any of the Servants of God, which are to be published whilst their *cause* is under discussion, must be submitted to the Congregation of Rites, as explained under Rule 32.

4°. All collections of the decrees of any of the Sacred Congregations must be submitted to the revision of the

Congregation by which they have been passed, as explained under Rule 33.

5°. All works by Vicars Apostolic and Apostolic Missionaries are to be submitted to the Congregation of the Propaganda, as explained under Rule 34.

All other works requiring ecclesiastical approval may be submitted to episcopal *censure*.

§ 2.

The legislator prescribes in the present Rule that those works which need not be submitted to the Apostolic See or to the Roman Congregations may be approved of by the bishop of the place wherein they are *published*. Now, as a book may be published simultaneously all over the world, the question naturally suggests itself: To what bishop, of all the bishops in the world, are we to apply for approbation of the aforesaid class of works?

Before answering this question, it would be well to collate this Rule with the corresponding prescription of the Tridentine legislation :—

Rule 35.	Tridentine Rule 10.
Approbatio librorum quorum . . . . . pertinet ad ordinarium loci in quo publici juris fiunt.	In aliis vero locis (i.e., extra almam urbem Romam) ad episcopum . . . . . civitatis vel dioecesis in qua impressio fiet, ejus approbatio, et examen pertineat.

L'Abbé Pèries on this Rule writes[1]: "*L'évêque dont il est ici question était en principe, jusqu' à notre Constitution l'évêque du lieu où le libre était imprimé. Le rôle de l'imprimeur étant aujourd'hui bien peu important à coté de celui de l'éditeur à qui appartient en realité le soin de lancer et de répandre l'ouvrage, la coutume s'est peu à peu introduite de s'addresser pour l'approbation à l'évêque du lieu habité par l'éditeur. Le Saint Père a fait une loi de cette coutume.*"

Il Monitore writes[2]: "*Nell' antica disciplina, in forza della*

[1] Page 184. [2] Page 76.

Regola 10 *dell' Indice, i libri doveano soggettarsi all' approvazione dell' Ordinario del luogo dove si stampavano, non già di quello dove si pubblicavano. . . . Ora questa sola parte della disciplina è mutata, dovendosi dar l'approvazione dall' Ordinario del luogo dove il libro si pubblica.*"

P. Pennacchi writes[1]: "*Antiqui juris dispositiones hac in paragrapho Leo XIII. immutavit; eo enim libri examinandi ac probandi erant ab Ordinariis locorum, in quibus typis amandabantur.*" And afterwards proposing to himself the question, *An Episcopus loci impressionis possit exigere ut liber imprimendus suo examini subjiciatur antequam imprimatur?* He replies: *Non potest, cum per hanc novam a Leone XIII. promulgatam legislationem eo officio fuerint exonorati.*

We see from this that the legislator in the present Rule has departed slightly from the old legislation, and there is no one but can see that the departure is a very important one. In the old legislation, outside the city of Rome, it was the bishop of the place, where the printing was done, that was to be applied to for approval; in Rule 35 it is the bishop of the place where the book is published: *in quo publici juris fit.* Accordingly, if a book is to be published simultaneously over an extensive area, any bishop within that area (for since we are dealing with a penal prescription we must be strict in our interpretation, and lean towards leniency as much as possible) may grant the desired approval.

Anyone, of course, can perceive how much more convenient this will be for authors than the old regulation. It will often happen, for instance, that a writer can get his work printed cheaper in one place than in another; and cheaper in a country in which he does not wish to publish it than where it is specially intended for. Moreover, the bishop of the place where the printing is done may have a prejudice against him, or may be unable to select a competent and impartial Censor. Now, in such cases it would be rather

[1] Page 212.

severe to penalise an author by obliging him to apply for approval to the bishop of the place where the work is printed.

The legislator, moreover, would seem to have consulted the interests of the faithful at large; under the old legislation it used to happen frequently that authors would get their books printed in a place where the Rules of the Index were not observed, or had been allowed by the Church to fall into abeyance. After having them printed, they then published them in places where the Rules bound and were observed. The result of this mode of acting was, that authors succeeded perfectly in evading ecclesiastical *censure* altogether: they were not obliged to submit their books to the bishop of the place where they were printed; and, according to Rule 10 of the Council of Trent, the bishop or bishops of the place where the books were published had no jurisdiction over them.

According to the present legislation, however, there is no escape: an author may go where he likes to have his book printed, but before publishing it he must recur for approbation to one of the bishops within the area of publication.

And here a practical question suggests itself for solution: What if the bishop refuses to grant the desired approbation and permission to publish? Is he obliged to explain his reasons to the author? This question has been proposed to the Congregation of the Index. I here give the question with the answer of the Sacred Congregation:—

Proposito dubio super Constitutione Officiorum ac Munerum videlicet: An peracto examine, ordinarii teneantur, denegatae licentiae librum publicandi, rationes manifestare?

Eminentissimi Patres, re mature perpensa respondere decreverunt: *Affirmative, si liber videatur correctionis et purgationis capax.*

Datum Romae ex S. Indicis Congregationis Secretaria, die 3 Septembris 1898.

Fr. Andreas Steinhuber, *S. C. Ind., Praef.*
Fr. Marcolinus Cicognani, *S. C. Ind., Secret.*

Should the censor deputed by the bishop to examine the book give it as his opinion that it was unworthy of approbation, he will be expected to give his reasons if the work seems capable of being corrected and expurgated; but if he considers the work fundamentally erroneous he will not be required to assign any reason. The author will be free, however, to seek approbation from another bishop within the area of publication.

Regula XXXVI.

Regulares, praeter Episcopi licentiam meminerint teneri se, sacri Concilii Tridentini decreto, operis in lucem edendi facultatem a Praelato, cui subjacent, obtinere. Utraque autem concessio in principio vel in fine operis imprimatur.

Rule 36 prescribes that regulars are to bear in mind that besides the permission of the Ordinary they are bound by the decree of the Council of Trent to obtain that of their superior; both permissions are to be printed either at the beginning or at the end of the work. The Tridentine decree here referred to is a regulation made in the 4th Session regarding the publication and use of the Sacred Scriptures: *Et si Regulares fuerint, ultra examinationem et probationem hujus modi, licentiam quoque a suis superioribus impetrare tenantur, recognitis per eos libris juxta formam suarum ordinationum.*

In explanation of the present Rule it is to be remarked that since it is a penal regulation, all its terms are to be strictly interpreted. By regulars we are to understand those who, strictly speaking, belong to the religious state. It is the three solemn vows of poverty, chastity, and obedience that constitute the soul and life of the religious state.[1] Hence, those who are not bound to any order or congrega-

[1] *Summa*, II.-II. 186, 6.

tion by those three vows cannot be said to come under the present Rule. Such persons, then, may be satisfied with the approbation of their bishop.

Are those who have made merely simple vows obliged to submit their books to the *censure* or judgment of their superiors before publishing them?

In answer, we should distinguish between obligations founded on the present legislation of the Index and obligations founded on the Rules of the Religious Institute. Persons who have made merely simple vows will not be bound by the present legislation to submit their books, to the *censure* of their superiors. However, they will, generally speaking, be bound to do so by the rules of their Institute.

Another question that suggests itself under this Rule is: Whether what holds for books holds, or not, for leaflets and cards also? Some would contend that it does not. For, they would say, there may be some reason for printing the name of the bishop who gives approval, but to print the words, *permissu superioris*, without stating who he is, except that he belongs to a certain order, is merely nugatory. Moreover, they contend that the words, *in principio vel in fine*, occur in the Rule; and, strictly speaking, such an expression applies to books, and not to leaflets. Finally, we are not to suppose that the legislator meant more than he has expressed, especially in view of the fact that when elsewhere, in the present Rules, he wished to designate leaflets or any publication issued in leaves or folds, he has used the specific term *folia*.

However, the best interpretation of the Rule is practice, and the custom holds of printing on leaflets and cards (if they are of special religious import), not only the name of a bishop within the area of publication, but also the permission of the religious superior of the author. And, after all, there is not so much weight in the arguments drawn from the

wording of the Rule. If we carefully read the Tridentine Rule 10, referring to the approval of books, etc., and the subsequent modification of that Rule by Clement VIII. (whose decree became a part of the old Index legislation) we shall note that the term *libri* in the Tridentine Rule becomes *opus* (a most generic term) in the decree of Clement VIII.[1] Moreover, we shall see that *in principio vel in fine* of Rule 36 (which we are discussing) is simply *ad principium operis*, in the decree of Clement VIII. In fact, the expression *in principio vel in fine* means nothing more than—*sive in fronte, sive in fine*—on the frontispage or at the end, at the head of the page, or at the foot.

REGLUA XXXVII.

Si auctor Romae degens librum non in Urbe, sed alibi imprimere velit, praeter approbationem Cardinalis Urbis Vicarii, et Magistri Sacri Palatii Apostolici, alia non requiritur.

Rule 37 prescribes that if an author residing in Rome wishes to get his book printed elsewhere, he may be satisfied with the approval of the Cardinal Vicar and of the Master of the Sacred Palace.

This Rule makes a special provision in favour of authors residing in the Holy City. It enumerates, as it were, one exception to Rule 35. According to Rule 35, they should have been obliged to obtain the approbation of one of the bishops of the place wherein the publication was to take place; but by the provision made in their favour by the present Rule, they may be satisfied with the approbation of the Cardinal Vicar and of the Master of the Sacred Palace, even though they should not wish to publish the book in Rome.

[1] "Regulares, praeter Episcopi et Inquisitoris licentiam (de qua Regula decima dictum est) meminerint teneri se sacri Tridentini decreto, operis in lucem edendi a Praelato cui subjacent obtinere. Utramque concessionem, quae appareat, ad principium operis imprimi faciat."—Clement VIII., *Il Monitore*, p. 77.

Chapter II.

THE DUTIES OF CENSORS.

Regula XXXVIII.

Curent Episcopi, quorum muneris est facultatem libros imprimendi concedere, ut eis examinandis spectatae pietatis et doctrinae viros, adhibeant, de quorum fide et integritate sibi polliceri queant, nihil eos gratiae daturos, nihil odio, sed omni humano affectu posthabito, Dei dumtaxat gloriam spectaturos, et fidelis populi utilitatem.

In the preceding chapter the legislator stated the various classes of literature that were to be submitted to the *censure* of the Holy See, and which classes might be approved of by the bishops of the place where the publication should take place. In the present chapter the legislator addresses himself in particular to the bishops; and he explains to them the manner in which they are to make the examination of the books submitted to their judgment, and enumerates the qualities they are to seek in those to whom they hand over the books for revision and criticism. As the preceding chapter of Rules imposes an obligation on authors to submit certain books to episcopal *censure* previous to their publication, so the present chapter imposes an obligation on bishops to see that the said books be examined promptly and impartially.

Rule 38 is taken almost word for word from Clement VIII., *Instructio de correctione librorum*, § v.: "*Ad librorum edendorum examen, deputandi sunt viri spectatae pietatis et doctrinae, de quorum fide et integritate sibi Episcopi polliceri queant, nihil eos gratiae daturos, nihil odio, sed omni humano affectu posthabito, Dei dumtaxat gloriam spectaturos ac fidelis populi utilitatem.*" It prescribes that the bishops who are to grant the approbation of any books are to be careful to select fit and proper persons to revise and examine them. Those selected must be men of well-known piety and learning, on whose trustworthiness and honesty the bishops

can rely; who are certain to do nothing from personal liking or ill-will, but who will lay aside all human considerations and act solely for the glory of God and the wellfare of the Church.

I have already explained the substance of this Rule when treating of the *Sollicita ac Provida* of Benedict XIV., and also when treating of Rule 29.

REGULA XXXIX.

De variis opinionibus atque sententiis (juxta Benedicti XIV. praeceptum) animo a praejudiciis omnibus vacuo, judicandum sibi esse censores sciant. Itaque nationis, familiae, scholae, instituti affectum excutiant, studia partium sepenant. Ecclesiae sanctae dogmata, et communem Catholicorum doctrinam, quae Conciliorum generalium decretis, Romanorum Pontificum Constitutionibus, atque Doctorum consensu continentur, unice prae oculis habeant.

In Rule 39 the legislator admonishes the examiners of books that in passing judgment on certain opinions and doctrines their minds must, in accordance with the directions of Benedict XIV., be free from every prejudice; they must lay aside all indulgent leaning towards their native country, towards their community, towards the schools in which they were trained, and towards the institute to which they belong; they must lay aside the principles that are the guiding-marks of mere schools or parties, and must, instead of such, be guided solely by the dogmas of the holy Catholic Church, and by the common teaching of Catholics—as contained in the decrees of the General Councils, the Constitutions of the Roman Pontiffs, and the unanimous teaching of theologians. In a word, they must imitate that broad-minded liberality of the Angelic Doctor, who is almost as much to be admired for the way he deals with those who differ from him, as in the way he expounds his own view, and who, before condemning anyone's opinion, instead of searching for faults, strives in every way he can to reconcile it with Catholic doctrine.

REGULA XL.

Absoluto examine, si nihil publicationi libri obstare videbitur, Ordinarius, in scriptis et omnino gratis, illius publicandi licentiam in principio vel in fine operis imprimendam, auctori concedat.

Rule 40 prescribes that when the examination has been made, if nothing appears in the book worthy of condemnation, the bishop is to give his approbation *gratis*, and in writing; and this approbation is to be printed either at the beginning or at the end of the work.

When the critics to whom the bishop has consigned the book for revision and examination have finished their task according to the manner specified by Benedict XIV., they bring back the book, together with their report, to the bishop. Their report will generally take one of the following forms:—

1. *Opus condemnandum.*
2. *Opus corrigendum.*
3. *Nihil obstat quominus opus imprimatur et publicetur.*

The bishop will then give his approbation in these or similar terms:—

1. *De superiorum licentia imprimatur.*
2. *De superiorum facultate imprimatur;* or,
3. *Imprimatur*; or,
4. *Nihil Obstat*; or,
5. *Permissu Ordinarii Dioecesis.*

The approbation is to be given *gratis* and in writing, according to the wish and precept of the legislator.

I would call attention, however, to the fact that this regulation is intended for the bishops who give the approbation, and not for the critics who make the examination. The bishops are bound to give approbation free of charge; the critics, however, are not bound to make the examination without remuneration of some kind. The legislator has left the treatment of the critics, in this respect, entirely in the

hands of the bishops. The "consultores," however, to the Congregation of the Index do their work gratuitously; and diocesan critics would do well, perhaps, to imitate them. Besides, it is likely that a diocesan regulation forbidding the diocesan critics from accepting any gift or payment from the authors would go a long way in nearly always excluding anything like literary favour or indulgence, and greatly facilitate the publication of works.

Chapter III.

The Classes of Works that Require Ecclesiastical Approbation.

Regula XLI.

Omnes fideles tenentur praeviae censurae ecclesiasticae eos saltem subjicere libros, qui Divinas Scripturas, Sacram Theologiam, Historiam ecclesiasticam, Jus Canonicum, Theologiam naturalem, Ethicen, aliasve hujusmodi religiosas aut morales disciplinas respiciunt, ac generaliter scripta omnia in quibus religionis et morum honestatis specialiter intersit.

Authors are not obliged to submit all kinds of books to Episcopal *censure* previous to publication; they are obliged to submit those only that treat of certain specified subjects. In Chapter III. the legislator specifies what classes of books are to be submitted to the *censure* of the bishop before being published.

Rule 41 is, perhaps, one of the most important regulations of the present legislation. It states that all the faithful are obliged to submit to Ecclesiastical *censure*, previous to publication, at least all books that treat of Sacred Scripture, Sacred Theology, Ecclesiastical History, Canon Law, Natural Theology, Ethics, and other similar religious and moral sciences, as well as all writings that are specially devoted to the treatment of religious or moral questions.

The meaning and extension of some of the terms of the present Rule may require explanation :—

Omnes fideles.—Those terms include all those that take part in the publication of the work. Hence, they include the editors and publishers ; and they include the writer, if he lends a hand to the publication of his work. If he takes no part in the publication it would appear that he does not fall under the present Rule ; for if he died at the time of publication how could he be expected to seek Episcopal approbation ? And if he is unaware that his manuscript is about to be printed, or that a new edition of his work is about to be issued, how can he be said to incur any obligation ?

Saltem.—From this term we are to infer that whereas the ordinary faithful are *obliged* to submit to Episcopal *censure* only certain classes of books, they are *invited* to submit all books previous to their publication. This term, then, supplies us with a solution of the many puzzling questions that may arise in the interpretation of this Rule. If we are in doubt as to whether a particular work comes under this Rule or not, the simple solution will be—to submit it to ecclesiastical *censure* as the law invites it ; for, as the Church is mistress of all knowledge, she ought to be competent to judge of all sciences as well as of the Sacred Science.

Qui divinas Scripturas respiciunt.—Under this class will come all editions and translations of the Bible, all commentaries and all introductions, as well as all works treating of the historical, divine, or canonical authority of the Scriptures. The view that works on the scientific or higher criticism of the Old and New Testament are immune from this *censure,* is solemnly condemned in the new *Syllabus* of Pius X.

Qui Sacram Theologiam respiciunt.—Under this class will come all works teaching of the various parts of Sacred Theology. Hence all works treating *ex professo* of questions

belonging to dogmatic, moral, mystical, or ascetical theology are included under those terms.

Qui Historiam ecclesiasticam respiciunt.—The *formal object* of ecclesiastical history is the narration of the origin, the growth, and the various vicissitudes the Catholic Church has gone through.

Do the lives or the acts of the saints come under this class? It would appear that they do not. The Church is quite distinct from the individuals that compose it; hence a biography of a saint, strictly speaking, cannot be said to be a work on ecclesiastical history.

Jus Canonicum.—The *formal object* of Canon Law will be the laws regulating the external government of the Church. Moral Theology may be said to regulate the actions of the soul of the Church, Canon Law the visible external actions of the body. A book may treat of the whole area of Canon Law or of a particular portion of it.

Theologiam Naturalem.—All works that treat of God, as known by the unaided light of reason, will come under this class.

Qui Ethicen respiciunt.—As moral theology is the counterpart of Dogmatic Theology, so Ethics are the counterpart of Philosophy. Hence under this class will come all works treating of the regulation and ordination of human actions towards those ends of man that we ascertain by the unaided light of reason.

Scripta omnia in quibus . . . specialiter intersit.—Under this class will come all writings that are devoted *specially* to the treatment of religious and moral questions. It should be noted that the term used in this Rule is not *libri*, nor *libelli*, nor *diaria*, nor *folia*, nor *opus*, but the most generic term that could be found—*scripta*. Accordingly, within the clause, it would appear, will come not only books and booklets, pamphlets and leaflets, but also periodicals and

newspapers. Furthermore, the term *specialiter* should be noted. It implies something more than a mere passing reference; perhaps, that the whole writing be devoted to the religious or moral subject.

There are few clauses in the present legislation that are likely to give rise to more discussion than this so-called *scripta omnia* clause. A number of questions have already arisen, and I here venture to anticipate a few more.

First.—Do novels, romances, tales, or fables, which are directed more to the heart than to the mind, and are devoted to the inculcation of some moral or religious duty, come under this clause? There is a diversity of opinion on this question. *Il Monitore* writes[1]: *E devono callocarsi altresi* (under this clause) *come a noi sembra i racconti o romanzi, il cui scopo è quello dell' educazione del cuore, la quale più efficacemente si ottiene cogli esempi che coi precetti.* P. Pennacchi,[2] however, is of opinion that such works do not come under this clause, and that they are immune from ecclesiastical censure; and this appears to be the best opinion. For the tendency of the present legislation is to limit the exigency of ecclesiastical *censure* to what is necessary and efficient for the safeguarding of faith and morals; and if we were to adopt the opinion of *Il Monitore* we should be launching out again into the wide sea of modern fiction; and it would be hard to to say where we should stop.

Second.—Do the articles on religious or moral subjects published in reviews and periodicals come under this class? It would appear that they do; for the words *scripta omnia* are general terms, and will acoordingly include not only books, but also articles. A brief consideration, however, of the source from which the legislator has drawn the present Rule places the question entirely beyond the range of controversy. The present Rule has been taken from

[1] Page 86. [2] Page 227.

a law made by Pius IX., in 1848, regulating the publication of books within the Pontifical States. It ran thus: "Censores ecclesiastici in locis temporali nostrae ditioni subditis de iis tantum solliciti sint quae Divinas Scripturas, Sacram Theologiam, Historiam Ecclesiasticam, Jus Canonicum, Theologiam moralem, Ethicen, aliasque hujusmodi religiosas aut morales disciplinas respiciunt, *ac generatim de omnibus in quibus Religionis vel morum honestatis speciatim intersit.* Juxta haec igitur statuimus atque permittimus ut omni ephemeridum et librorum genere illi dumtaxat sine praevia ecclesiastica censura edi nequeant qui moralis aut religiosi uti diximus argumenti sint; in ceteris vero *ii tantum articuli, qui simile argumentum habeant, vel causam ipsam religionis aut morum honestatis proxime attingant.*"[1]

Since the legislator has in the present Rule renewed and copied almost word for word the law made by Pius IX. for the Pontifical States, we are naturally to suppose that the same meaning has been given to the copied words as was given them by Pius IX.; but Pius IX. explains the meaning of *scripta omnia* (*generatim de omnibus*), and says that articles in newspapers treating of matters proximately connected with religion or morals are included.

Third.—How are we to know what kind of newspaper or periodical articles require ecclesiastical approbation? What criterion or standard have we to guide us? There is no one but will see of what practical importance this question is. It is also a question on which there is likely to be a great diversity of opinion, as the Rules on the press are entirely new; as there is no reference to articles beyond the general prescription *scripta omnia in quibus religionis et morum honestatis specialiter intersit,* and the explanation in the preceding regulation made by Pius IX.; and as we have practically nothing to guide us in its solution except the general scope

[1] Cf. Pennacchi, pag. 226.

and character of the present legislation and the presumptive intention of the legislator.

Il Monitore, on Rule 42, thus writes: "*Altro è poi la direzione di un giornale, altro la redazione o la collaborazione. Per la prima solamente occorre la venia del Vescovo; non per le altre, e molto meno per le corrispondenze.*" By Rule 42 secular priests are expected to consult their bishops before publishing a book even on the natural sciences, and are forbidden to undertake the direction of a newspaper or a periodical with their permission; but, according to *Il Monitore*, in the matter of newspaper and periodical articles or letters, the same rule holds for them as for the laity. P. Pennacchi writes (pag. 227): "*Ex lectione demum paragraphi quisque intelligit hos articulos, ut sub lata lege concludantur de religione et morum honestate speciali ratione agere debere*: SPECIALITER; *non obiter aut perfunctorie.*"

The *Irish Ecclesiastical Record* having proposed the question, What is meant by the phrase *specialiter intersit* in this clause? concludes as far as newspaper or periodical articles are concerned: "*According to Lehmkuhl and Genicot the writings mentioned in this paragraph do not include writings published in newspapers or non-religious periodicals since custom interprets the law in this way.*"[1] The writer would, apparently, have the article to be of *very* special religious or moral import before requiring ecclesiastical approbation, and would, perhaps, free it altogether, if published in a purely secular newspaper or periodical, as such organs do not usually publish very important religious or moral articles.

Together with those indications, I would venture to lay down the following rules:—

1°. It is not who writes the article, or why it is written,

[1] *Irish Ecclesiastical Record*, Dec., 1906; Note by Dr. Harty.

or its size, but its subject-matter, that will make it require ecclesiastical approbation. This is almost evident from the general scope of the Index legislation, as may be seen from the *Sollicita ac Provida*, § 8, 9, 10.

2°. The subject-matter of the article must come within the scope of Rule 39 of the present Constitution: for if censors have not the right to condemn the article and refuse approbation, surely the writer is not expected to submit it. Accordingly, if its subject is not one on which there is a consensus of opinion among approved theologians, or one that has been defined in the Constitutions of the Roman Pontiffs, or in the decrees of the General Councils, or one that forms part of Catholic doctrine, or, finally, that is a dogma of faith, the article will not require to be submitted for ecclesiastical approbation. This is by virtue of the present Index legislation. However, it may happen that owing to certain religious, social, or political disturbances, local or diocesan, or national regulations may be made regarding certain subjects or certain classes of persons, as has already actually occurred in some countries.

3°. The subject-matter must be treated *ex professo*: for if Rules 4, 9, 10, and 14 require an *ex professo* treatment, surely an individual article could not be proscribed for less.

This solution of the question, I think, will reduce the exigency of the present clause to what is barely necessary to safeguard faith and morals, and will, in accordance with the wish and intention of the legislator, render the Rule so easy of observance that anyone who is at all well disposed cannot find it irksome or annoying. "*Praeterea*," writes the legislator in the *Officiorum ac Munerum*, "*ad ipsas Regulas mentem adjicimus, easque decrevimus, incolumi earum natura, efficere aliquanto moliores, ita plane ut iis obtemperare, dummodo quis ingenio malo non sit, grave arduumque esse non possit.*"

Fourth.—A practical question which has already more than once arisen, and which has evoked considerable discussion, is whether or not temperance leaflets or pledge forms come under this clause *scripta omnia*, and accordingly require episcopal approval.

There would seem to be two opinions held on the point. The first opinion is that such *temperance leaflets* do come within the scope of the clause, and require episcopal approval. In support of this it is represented how the expression *scripta omnia* is the most generic expression that occurs in the whole of the present Index legislation, and that it is so extensive that it will include any kind of publication at all that in any way affects religion. Moreover, it is alleged that, in the administration of the pledge delicate theological questions of considerable interest will occasionally arise, and that even for the promotion of the temperance movement itself (which will conduce to the practice of other virtues and to general sanctity of life) it would be well that some should be controlled in their zeal and ardour who, condemning, not the abuse, but even the use of alcoholic drinks, are almost Manichaean in their views.

Others, however, maintain that those temperance leaflets are not included in this clause; and accordingly that they may be printed and circulated without episcopal approval. They say that, as we are to interpret all the parts of the present legislation strictly, we are not to attribute more to the legislator than he has actually expressed; and that nowhere in the present legislation, nor in any of the sources from which it has been drawn, do we find any specific reference to temperance writings or any general words which necessarily include all forms of the temperance pledge. Moreover, if custom be taken as a guide to the interpretation of this clause, they say that in some dioceses, at least, their view seems to have

been admitted by ecclesiastical authority; and it will be found that nearly half the temperance leaflets at present in circulation have been published without episcopal approval. Hence they conclude that, apart from diocesan regulations to secure uniformity in the administration of the pledge, or for some other reasons, *vi hujus legis*, there is no obligation by virtue of which temperance leaflets must be approved by a bishop.

Whichever of those two opinions be deemed the best, an easy solution will always be, to submit the leaflet to episcopal *censure*, and have it approved; for, as already stated, the law invites it.

In judging these two views, it must be understood that we are to prescind altogether from the prayers, the exhortations, the instructions, and spiritual advice that are sometimes given, together with the form of pledge on the temperance leaflet (if such instructions, etc., are of any special religious import, it can scarcely be maintained that the leaflet might be issued without approval); and that we are to consider whether a temperance leaflet bearing solely the form of the pledge comes under this clause or not. All are agreed, moreover, that the expression *scripta omnia*, is a most extensive one; the disagreement is as to whether the adjectival phrase, *in quibus religionis et morum honestatis specialiter intersit*, must necessarily apply to all temperance leaflets on which nothing appears but a form of the temperance pledge.

If there be any special import in such temperance leaflets it cannot come from the person who drafts the pledge or gives it (*causa efficiens*)—whether belonging to one religious order or another, whether priest or layman; nor will it come from the scope or aim of the temperance advocate (*causa finalis*)—though the practice of temperance will lead to the practice of a great many other moral virtues besides. Both those causes are extraneous to the temperance leaflet, and

the Index legislation is concerned directly with writings, and not with persons or their aims. Nor will the size of the leaflet or the length of the pledge-form (*causa materialis*) be of primary importance. It will be the reasons assigned, the motives given for the practice of the temperance (*causa formalis*) that will impart to the leaflet its specific character, and will give it any religious import that it may possess.

The reasons or motives given in temperance pledge-forms may vary considerably. Some pledge-forms advocate the observance of temperance for the honour of one's country, for social and civic welfare, for one's own temporal prosperity. Others, without appealing much to motive at all, or to anything supernatural, are a simple promise to abstain from intoxicating drinks:—*I promise to abstain from all intoxicating liquor, and to prevent as much as possible, by advice and language, drunkenness in others.* Whatever may be held, with regard to the sufficiency of motive in the forms here indicated, it will generally be recognized that no one of them contains anything of very special religious interest or import. Other pledge-forms appeal slightly to the supernatural, but not much to motive, thus:—*I promise, with the Divine assistance, to abstain from all intoxicating liquors, and to prevent as much as possible, by advice and example, intemperance in others.* Neither would this simple expression of reliance on Divine grace be of any special religious import.

Some pledge-forms, however, assign the most profound religious motives for the practice of the virtue of temperance —the greater glory of God—the salvation of souls—the honour of the Sacred Thirst and Agony of Jesus—the sorrowful heart of Mary—in satisfaction of one's sins—to obtain grace to lead a good, holy and exemplary life, and die a happy death; and temperance leaflets bearing such solemn pledge-forms, I should say, come under the *scripta omnia* clause, and require episcopal approval. For, if St. Paul,

after being wrapt to the Third Heavens, and been made to know things that he could never hope to convey in human language, had yet to acknowledge that he knew nothing in the whole domain of theology or philosophy that was not contained in the mystical book of the Cross of Christ, surely such solemn pledge-forms contain something at least of special religious or moral import.

Fifth.—A practical question of considerable importance now arises. What, if an author were to publish a book treating expressly of some religious or moral question, without having previously obtained episcopal approbation; what would be the consequence? Would the book be thereby proscribed? Or, putting the question in general form, is the absence of episcopal sanction or approbation sufficient to have a book proscribed?

This is a wide question, and takes us over the whole range of the present Leonine Constitution. In order that the nature of the question be perceived I here lay out for inspection and examination the clauses of the present Rules that refer to it.

Rule 7. Versiones omnes in lingua vernacula . . . omnino *prohibentur* nisi fuerint ab Apostolica Sede approbatae, aut editae sub vigilantia Episcoporum.

Rule 13. Libri aut scripta quae . . ., si publicentur absque legitima superiorum Ecclesiae licentia *proscribuntur*.

Rule 15. Novae vero . . . sine Ecclesiasticae potestatis licentia *non publicentur*.

Rule 17. Indulgentiarum libri omnes . . . *non publicentur* absque competentis auctoritatis licentia.

Rule 19. Litaniae omnes praeter . . . *non edantur* sine revisione et approbatione Ordinarii.

Rule 20. Libros aut libellos precum . . . nemo praeter legitimae auctoritatis licentiam publicet: *secus prohibiti habeantur*.

Rule 32. Quae ad causas, Beatificationum pertinent, . . . absque beneplacito Congregationis Sacris Ritibus tuendis praepositae, *publicari nequeant*.

It may be remarked that there are many clauses through the present Rules that would go to prove that even the mere

absence of ecclesiastical approbation would be enough to proscribe books treating of religious or moral subjects.

But, on the other hand, against all this, we shall remark, on examination, that the legislator has stated, in the *Officiorum ac Munerum*, or Introduction to the present Rules, that it was his intention to mollify as much as possible the old legislation on the Index. Now, we may say that the Rules of the Council of Trent were the old legislation; and that the present Rules are the new legislation on the Index The old legislation was a law of fear; the new a law of grace and favour. Accordingly, just as we should not say that it was easier for a man to be saved under the law of Moses than under the New Law, so we are not to say that the present legislation has laid a heavier burden on the shoulders of authors, than had been laid on them by the old Tridentine legislation. But nowhere in the Rules of the Council of Trent do we read that the mere absence of episcopal sanction was enough to have a book proscribed; therefore, neither in the new. Secondly, we are not to lay an obligation on authors except there be express mention of it; but in the present Leonine Constitution there is no express and general declaration that the mere absence of episcopal approbation will be enough to have a book proscribed.

In explanation of the clauses I have cited, I should say that the end and purpose of the present legislation on the Index is to prevent by every possible means the faith and morals of the people from being corrupted by bad literature. To this end several means are employed: bad literature already published is proscribed, and thereby snatched from the hands of the public; certain classes of literature are required to be submitted to ecclesiastical censure before publication, lest anything bad should spread in circulation; finally, books treating of faith and morals are sealed with episcopal approbation in order that the faithful may have an

assurance and a guarantee that what they read is not bad or dangerous. Now, if a book is good the end of the present legislation is naturally attained without any trouble; and when the life of the patient is secured by the remedies that nature herself supplies, where is the need to call in the physician?

Sometimes, however, a certain *means* will be so closely connected with the *end* that it will be the only way of arriving thereat, just as we meet with some diseases that cannot be well cured without the performance of a most painful operation. And so we find some particular instances in the present Leonine Constitution, where ecclesiastical approbation is exacted under pain of proscription. This is done in Rules 7, 13, 20. It is not necessary to discuss the reasons such extreme measures have been adopted regarding the books that come under those Rules.

In conclusion, then, it might be said that although ecclesiastical approbation is required under pain of proscription for those classes of literature that come under Rules 7, 13, and 20, yet it cannot be said that, in general, the mere absence of ecclesiastical approbation is enough to have a book proscribed.

How now are we to answer the difficulties proposed? We have just seen what reply may be given to those drawn from Rules 7, 13 and 20. For such literature as comes under those Rules, it must be conceded that ecclesiastical approbation is exacted under pain of proscription. With regard, however, to Rules 15, 17, 19, and 32, it would appear that it is not the *reading*, *selling*, or *retaining* of the books—which would have been the object of proscription—but their *publication* that is forbidden. Hence, it follows that the prohibition of those Rules affects the author, and not the public. Hence, if the literature coming under Rules 15, 17, 19, and 32 be published without the required ecclesiastical approbation,

the present legislation is, indeed, to a certain extent, violated by the author; and he may be punished according to the gravity of his offence; but if the literature has once been published, the public will be at liberty to read it.

It will be noted then, that in the present legislation there are two sets of words—*omnino prohibentur, proscribuntur, prohibiti habeantur*, and *non publicentur, non edantur, publicari nequeunt*. The one set expresses proscription; the other refers to the requirement of ecclesiastical approval. Proscription affects the public at large, and implies a prohibition to possess, to read, to publish, or to defend; the requirement of ecclesiastical approval affects the author alone; proscription removes from circulation, as far as it is possible to do so, bad literature already published; ecclesiastical approval prevents the publication of such, and gives a guarantee that what is approved is good and safe reading. It is more than likely that no book deserving proscription could pass episcopal censure, and secure approval; whereas, generally speaking, books not having episcopal approval (though they come under the present Rule 41), would not be proscribed. As far as a book on one of those subjects requiring episcopal approval is itself concerned, that goes forth on the world without an *imprimatur*,—it may expect a stormy and chequered career. It will be a pirate vessel, sailing without the protection of any flag; and as it will be in hostility to the power that rules the seas it sails on, it may have up in arms against it all well disposed Catholics. On the other hand, the book that goes forth bearing an episcopal *imprimatur* will begin its career in calm and sunshine, under the strongest patronage and armed with the strongest recommendation; for what higher character than to be declared before the whole world, by the one competent authority, that she contains nothing but what is true and good?

REGULA XLII.

Viri e Clero saeculari ne libros quidem qui de artibus scientiisque mere naturalibus tractant, inconsultis suis ordinariis, publicent, ut obsequentis animi erga illos exemplum praebeant.

Iidem prohibentur quominus, absque praevia ordinariorum venia, diaria vel folia periodica moderanda suscipiant.

Rule 41 is addressed to all authors of any class whatsoever; Rule 42 is specially directed to the secular clergy. It prescribes that no one belonging to the secular clergy is to publish a book treating even of arts or natural sciences without previously having consulted his bishop; and he is bound to do this in order to give an example of willing obedience to him. It also declares that members of the secular clergy are forbidden to undertake the direction of daily or weekly newspapers without the permission of their bishops.

It will be at once remarked that this Rule naturally falls into two parts. The first part deals with books treating of arts and natural sciences; the second part refers to the direction and management of newspapers. Accordingly, for the sake of clearness, I will treat of those two parts in separate paragraphs.

§ 1.

In the first part of the Rule there is one expression that requires careful consideration:—

Inconsultis suis ordinariis publicent.—What is the meaning and force of this expression? In explanation, I should at once state that there is a distinction to be made between the *episcopal censure* of a book and the *episcopal permission* to publish it. Episcopal censure consists in a thorough examination of a book in order to determine whether there be anything in it worthy of condemnation or not. Episcopal permission, on the other hand, to publish a book is merely a concession on the part of the bishop. A bishop will be bound, in justice, to grant

approbation in case he sees nothing in the book worthy of condemnation; a priest, however, will obtain permission to publish a book generally by notifying to his bishop his desire to do so, and his respectfully and obediently asking his consent. Therefore, there is a wide distinction between those two things—episcopal censure and episcopal permission. The one belongs to the bishop of the place where the book is to be published; the other to the bishop of the priest who wishes to publish the book. The one is purely an act of the judgment, the other a concession of the will. The one has for its object only writings treating of subjects specially connected with faith and morals; the other includes even works treating of arts and natural sciences. Lastly, the end of one is to safeguard the purity of faith and morals; the end of the other is to give good example to the laity.

Now I should say that the expression *ne inconsultis suis ordinariis publicent* does not mean that secular priests are bound to submit works of theirs treating even of arts or natural sciences to the judgment or censure of their bishops, and that they are to abide by their decision; but I should say that it means merely that secular priests are bound to notify to their bishops their desire of publishing books, even such as treat of arts or natural sciences, and that they are to receive with submission and gratitude any advice their bishops may be pleased to give them. In proof of this I should remark that, since we are dealing with a penal regulation, we must interpret its terms strictly, and that we are not to suppose that the legislator meant more than what he has actually expressed. Now, strictly speaking, the Latin word *consulere* will mean either to *approach* (con-sal-ire) *with the intention of seeking counsel*, or else to *sit at one's feet* (con-sed-ere) *for the purpose of listening to advice;* and in neither acceptation will the term imply a *judgment or decision*. Moreover, if the legislator really meant episcopal

censure, and wished to bind priests by the decision of their bishops, he would have clearly expressed so, as he had done elsewhere. Let us collate the present Rule, for instance, with Rules 36 and 41:—

Rule 36.	Rule 42.	Rule 41.
Regulares, praeter episcopi licentiam, meminerent *teneri se*, Sacri Tridentini decreto, operis in lucem edendi facultatem, a praelato cui subjacent, *obtinere.*	Viri e clero saeculari ne libros quidem. . . . . inconsultis suis ordinariis *publicent ut obsequentis animi erga illos exemplum praebeant.*	Omnes fideles *tenentur* praeviae censurae ecclesiasticae eos saltem *subjicere libros*, etc.

Finally, it appears from the end the legislator has had in view that he did not mean episcopal censure; the end he had in view was to have given to the laity an example of *obedience*, whereas the end of *episcopal censure* is to safeguard the purity of faith and morals.

Having now explained the force and meaning of the expression *ne inconsultis suis ordinariis publicent*, a few practical questions suggest themselves regarding certain contingencies that may occur.

What if a priest published a book on one of the aforesaid classes of subjects without previously having *consulted* his bishop? Would either he or his book fall under any penalty? In reply I should say that it would appear that the book, at least, would be free from all penalty: for we must interpret the present Rule *strictly*; and there is no mention herein of penalty or proscription of any kind. As regards the author, I should say that he violated the present legislation; and that he may accordingly be punished by the bishop by virtue of the powers given him by Rule 49. Since, however, the end of the present Rule is to have given to the laity an example of *obedience*, the offence of the priest might be considered merely trivial, and, therefore, as deserving only a light punishment.

What, then, if the priest *consulted* the bishop, and were forbidden to publish the book? A number of questions will arise from such a supposition. Would the bishop be bound to make known to the priest the reasons of his prohibition? Would the priest be at liberty to publish the book even against the will of the bishop? If so published, would either the book or its author fall under any penalty or punishment?

In reply to the first question I should remark that, perhaps, some may be inclined to consider the bishop bound in such a case to manifest the reasons of his prohibition, on the strength of a certain Response of the Sacred Congregation of the Index already cited in the explanation of Rule 35. The question proposed to the Sacred Congregation was:—

An peracto examine, Ordinarii teneantur denegatae licentiae librum publicandi, rationes manifestare?

Res.—Affirmative: si liber videatur correctionis et purgationis capax.

They may be inclined to argue, from the scope of this question, that, as there is no distinction of bishops made nor distinction of books, *ubi lex non distinguit nec nos distinguere debemus.*

I should consider, however, such a conclusion as incorrect. In the first place, even granting that the Sacred Congregation implied no distinction of bishops or books, the conclusion would be too extensive, for by a logical conversion of the response of the Sacred Congregation we obtain the result: *si liber non videtur correctionis et purgationis capax, non tenentur.* Therefore, at least they would not be bound if the book appeared to be incapable of correction. Secondly; although the Sacred Congregation made no explicit distinction of books, yet it very clearly implied one. The Sacred Congregation could not possibly have referred to, and included books treating of arts or natural sciences; for, what

right would a bishop have to insist on one of his priests following a certain theory on a purely scientific question, or on his adopting a certain mode of treatment in discussing a purely literary subject? Although the Sacred Congregation then has not expressed in explicit terms a distinction between books treating of arts or natural sciences, and books treating of subjects specially connected with faith and morals, yet it has very clearly implied such a distinction. In solution, therefore, I should say that bishops are not to be supposed subject to any obligation towards authors, unless such obligation is clearly expressed, or at least clearly implied, in the present legislation; but, as far as we have had up to the present authentic interpretation of the present Rules, it does not appear that bishops are bound to explain to their priests their reasons for forbidding them to publish certain books, even such as treat of arts or natural sciences.

In reply to the second question, I should say that, as far as the present legislation goes, it does not appear that the priest would be bound to abstain from publishing the book; for we are not to impose an obligation on him or restrict his liberty unless there be clear mention of the obligation in the present legislation. But nowhere does it appear that the priest would, in such a case, be bound to abstain from publishing his book. Moreover, would not the priest have fulfilled the precept of the present Rule? He is herein commanded to *consult* his bishop; and did he not do so?

I have said that he would not be obliged to abstain from publishing the book, as far as the present legislation is concerned; he might, however, be obliged on other grounds. The bishop will always exercise jurisdiction over the priest in everything concerning the fulfilment of his sacred ministry; and possibly the obligation to abstain from the publication may arise from such a source.

In reply to the third question I should say that the book

would be free from all penalty. For, owing to the matter of which the book treats, the bishop could exercise no control over it. And even though the matter came within the sphere of his jurisdiction, we have already seen that, very probably at least, the mere absence of episcopal sanction is not sufficient to have a book proscribed. As regards the authors, we must distinguish between the present legislation and diocesan regulations; as far as the present legislation is concerned the priest would be quite free from blame, because he would have fulfilled the precept of the present Rule in having previously *consulted* his bishop. As regards diocesan regulation, I should say that such a case is outside the scope of a commentary on the general Rules of the Index.

From a general survey, then, of the present Rule, it appears that there has been laid on the shoulders of the secular clergy an obligation from which the regulars are exempt. But what the secular clergy are obliged by the present Rule to do towards their bishops, the regulars will generally be bound to do by the rule of their Institute towards their religious superiors. Having before their eyes those two examples of obedience to ecclesiastical authority, even in matters of arts and natural sciences, the laity cannot well complain of undue severity in being obliged to submit to ecclesiastical censure, works treating of subjects specially connected with faith and morals.

§ 2.

In the second part of the Rule the legislator prescribes that no secular priest is to undertake the direction or management of daily or weekly newspapers without permission of his bishop.

Amongst the Commentators who have heretofore written on the present Rules of the Index, a difference of opinion

exists with regard to the exact meaning of the terms *Folia Periodica* :—

1°. P. Vermeersch, S.J., is of opinion that the terms *Folia Periodica* do not include reviews or periodicals. According to him there would be no other difference between *Diarium* and *Folium Periodicum* than, that the one is issued daily, and the other only periodically, that both terms are used to designate newspapers, but not reviews or periodicals. In his Commentary on the present Rules he writes (page 50) :—

> *Folia Periodica* illa intelligimus, quae diariorum similia, sola frequentia editionum ab his differunt. Non ergo ea quae gallice vocantur "Revues," cum fasciculi eorum pro libris vel libellis habeantur.

2°. L'Abbé Pèries, however, would include reviews and periodicals under *Folia Periodica.* He writes (page 209) :—

> Le P. Vermeersch nous paraît trop large en excluant les Revues du nombre des periodiques : la distinction volontairement accusée dans le texte entre *diaria* et *folia periodica* nous semble ne pas permettre d'adopter son opinion. Nous croyons donc que, même lorsqu'il s'agit de la direction d'une revue, les ecclésiastiques doivent se munir de l'autorisation de l'évêque.

3°. *Il Monitore Ecclesiastico* take sides with l'Abbé Pèries. It writes (page 88) :—

> Ciò che si è detto dei libri da stampare, dicasi pure dei giornali e dei periodici da dirigere : nessun ecclesiastico può far ciò senza averne ottenuta venia dal proprio Vescovo.

4°. P. Pennacchi prefers the opinion of P. Vermeersch, S.J. After having stated the opinion of l'Abbé Pèries, he writes (page (231) :—

> Verum nisi nos fallat opinio, sententia Patris Vermeersch vera censenda est, eaque retinenda.

I consider the opinion of P. Vermeersch and P. Pennacchi the best.

In explanation I should recall, what I have elsewhere

frequently stated, that the present Rules must be *strictly* interpreted throughout; and that, should any expression bear two meanings, we are to accept it in the more lenient sense. Employing those two canons of criticism in the present instance, we shall see that we are fully justified in limiting the prescription of the present Rule to newspapers.

Strictly speaking, reviews and periodicals will be *libri* or *libelli; Folia* will be nothing else than *folds* of the standard sheet of paper, and, if issued periodically, will be *Folia Periodica*. Moreover, when the legislator wished to express reviews and periodicals, he employed an expression different from *Folia Periodica*. In Rules 21 and 22, for instance, he refers to three kinds of issues from the press—dailies, weeklies, reviews, and periodicals. The word he uses for dailies is *Diaria;* for weeklies, or for newpapers issued at any other interval, the word is *Folia Periodica;* whilst for reviews and periodicals he uses the expression *libelli Periodici*. It would seem, therefore, the meaning given to the terms by l'Abbé Pèries and *Il Monitore* is a forced meaning, and against the general use of the terms throughout the present Constitution. Moreover, since the terms are capable of a lenient interpretation, why not adopt it?

The legislation is, therefore, much more strict with regard to the direction and management of newspapers, than of reviews and periodicals. A secular priest, as far as the present legislation is concerned, may undertake, of his own free will, the direction or management of a review or periodical; he cannot undertake the direction or management of a newspaper without the consent of his bishop.

Sometimes it may happen that a secular priest will put forward a lay person as the *nominal* director of the paper, to sustain the inconveniences, and possibly the odium, that may arise from certain publications, whilst he himself *really* directs the paper from behind the scenes. Such a mode of

action, however, would seem to fall under the present Rule.

It must be borne in mind that if the periodical or review is specialy devoted to the treatment of religious or moral questions, although the priest was free in undertaking its direction or management, yet he will be obliged by Rule 41 to subject all its articles to episcopal censure.

It is furthermore to be remarked that by the present Rule secular priests are at perfect liberty to send contributions to periodicals or newspapers, quite independently of their bishop, if they so please—provided, of course, that their articles do not come under the *scripta omnia* clause of Rule 41. It does not, however, follow therefrom that there may not be a diocesan regulation, obliging the priests of the diocese to refrain—at least for some time, owing to some peculiar or local disturbance—from making such contributions without the knowledge of their bishop. Of course, the consideration of such regulations, which may be said to be domestic to each diocese, lies outside the scope of a commentary on the general Rules of the Index.

Chapter IV.

DUTIES OF PRINTERS AND EDITORS.

Regula XLIII.

Nullus liber censurae ecclesiasticae subjectus, excudatur, nisi in principio nomen et cognomen tum auctoris tum editoris praeferat, locum insuper et annum impressionis atque editionis. Quod si aliquo in casu, justas ob causas, nomen auctoris tacendum videatur, id permittendi penes Ordinarium potestas sit.

After having specified in the preceding chapter the different classes of books that are to be subjected to ecclesiastical censure, the legislator states in the present chapter the special duties of editors and printers.

Rule 43 prescribes that no book which has been subjected to ecclesiastical censure shall be printed without bearing at the beginning the name and surname of both the author and the editor. It must also bear the name of the place where it has been printed, as well as the year and the number of the edition. If, however, in any particular case it should, from just causes, seem desirable to conceal the name of the author, permission to that effect may be obtained from the bishop.

Tum auctoris tum editoris.—The author of a book will be he who had the chief hand in its first and original production. If the book be composed of words or passages taken from several other books, its author will be he who compiles it. The editor of a book is he who gets it printed and published. Sometimes the same person will be both author and editor, and sometimes they will be two different persons. If they be two different persons two names will be required; if, however, the same person fulfils the offices of both author and editor, then, of course, one name will be enough.

All books then that have had to be subjected to ecclesiastical censure must bear at the beginning the name of the author and editor; they must also bear the name of the place where they were printed. Lastly, they must bear the number of the edition and the year they were printed.

The legislator has in the present Rule departed considerably from the old legislation on the same point. According to the decree of the Council[1] of Trent there was nothing required save the name of the author. Subsequently, how-

[1] Sess. IV. Decerint ac statuit *Sancta Synodus* ut posthac Sacra Scriptura potissimum vero haec ipsa vetus, et vulgata editio, quam emendatissime imprimatur: nullique liceat imprimere aut imprimi facere quosvis libros de rebus sacris *sine nomine auctoris.*

ever, Clement VIII.[1] made a regulation according to which the name of the country to which the author belonged, as well as his own name and surname should be given. It was, furthermore, prescribed by the same regulation that should the bishop give permission to conceal the name of the author, the name of the person who approved the book should be specified.

The changes introduced by the present Rule may now be easily remarked. The country to which the author belonged was required to be stated by the old legislation. There is not a word about it in the present Rule; there was no mention of the editor in the old legislation; he has been introduced into the new. There was nothing about the place of printing, the year of publication, or the number of the edition in the old legislation. According to the new all three must be stated at the beginning of the book. Last and most important change: the regulation of Clement VIII. included every kind of books. The present Rule includes those books only that have to be submitted to ecclesiastical censure.

The reasons that moved the legislator to introduce those changes may easily be perceived. At the time of Clement VIII. the same person generally was editor as well as author, so that there was no need to demand the name of the editor; nowadays, however, there are more editors than authors, and new editions are oftentimes so enriched and enlarged as almost to merit the name of

[1] *De Impressione librorum* § 1. "Nullus liber in posterum excudatur, qui non in fronte *nomen, cognomen et patriam praeferat auctoris.* Quod si de auctore non constet, aut justam aliquam ob causam, tacito ejus nomine Episcopo et Inquisitori liber edi posse videatur, *nomen illius omnino, describatur, qui librum examinaverit atque adprobaverit.* In his vero generibus librorum qui ex variorum scriptorum dictis, aut exemplis, aut vocibus compilari solent, is qui laborem colligendi, et compilandi susceperit, pro auctore habeatur."

original works. Owing, therefore, to the practice of the present age, it has been necessary to specify and include the name of the editor. The name of the place where the book is printed, the number of the edition, and the year of publication have been demanded by the present Rule, in order to exclude every possible chance of evasion or escape from ecclesiastical law. Very frequently at the present day authors get a large number of copies of a work struck at one time, and then get them marked as belonging to so many different editions—to make it appear, perhaps, that the work has been greatly in demand, and thereby to increase its popularity and widen its circulation. By this plan authors might have evaded ecclesiastical law; for the condemnation of a book belonging to one edition might not include those belonging to other editions, and so there should be as many individual proscriptions of the work as the author might please. This *ruse* is frustrated by demanding the year of publication and the number of the editions, for how could an author dare to publish a book in 1900, marked as printed, say, 1920? Lest, however, by any chance, there should be two editors of the same name who would publish an edition of the same book in the same year, the name of the place of printing is furthermore required.

If then anything should appear in the book worthy of condemnation and proscription, the ecclesiastical authorities can immediately know where to apply to for explanation, and where also to mete out punishment, in case it should be deserved.

Liber ecclesiasticae censurae subjectus.—Those demands are not made of all authors; they are made only of authors of such books as fall under ecclesiastical censure. What those books are have been already specified in Rule 41.

A practical question here suggests itself for solution. Are

authors of articles dealing specially with religious or moral questions, and published in newspapers and periodicals, obliged by the present Rule to append their names to the articles? On this question there is a difference of opinion. 1°. *Il Monitore* is of opinion that the authors of such articles come under the present clause. It writes (page 89):—"*Ciò che qui è prescritto pei libri, vale pure pei giornali, e periodici soggetti alla censura? E perchè no? Anche gli articoli trattanti di cose religiose e morali devono essere firmati dai respettivi autori, salvo se, per guiste ragioni, non se ne sia dispensa dall' Ordinario.*" 2°. P. Pennacchi, however, is of opinion that the authors of such articles do not at all come under the present Rule; and that, therefore, they are not obliged to give their names, but may publish the articles anonymously (pag. 240). He says that the present Rule includes, not articles, but *libri*; therefore the authors spoken of do not come under the clause. He grants, however, that if the whole periodical be devoted to the treatment of religious and moral questions, it is tantamount to a *liber quo religionis, aut morum specialiter intersit;* and will, therefore, come under the present Rule.

This latter opinion would appear to be the best: for we must interpret the legislator strictly, and there is mention, not of articles, but of books. In explanation, I should say that there are three questions arising from the present legislation with regard to the Press that must be carefully distinguished;—1°. That which regards the organs themselves, and which I have already discussed under Rule 21. 2°. That which regards the several issues of the organ collected and bound in one volume, which may be treated just as a question regarding any other book. 3°. That which regards the several articles or individual utterances of the organ. The organ, the collection of the separate issues, and the

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individual articles are three things really distinct from one another. We may illustrate the distinction with an analogy: When we say that a man *lives*, *writes*, *speaks*, we mean three different things: he may *live* without *writing*; he may *write* without *speaking*; he may *speak* without *writing*. If he *lives* bad, he and everything he does will be bad; for a bad tree bears bad fruit; and the Church was wont in past ages to condemn men of exceptionally bad character, such as Arius, Eutyches, and Luther. If a man *writes* bad books, they may be proscribed by the present general Rules; if a man is going to *speak* on any important subject, he should seek advice and counsel, although afterwards every word he speaks is not to be branded with his name as it proceeds from his mouth. Now, in like manner with the Press. We may say that it *lives*, *writes*, and *speaks*. It *lives* through its principles, its motives, and its clients; it *writes* when it collects its several issues and binds them in a book; it *speaks* every other day in its articles and separate numbers. If the organ is bad, it may be condemned with all its subsequent issues, as is done by Rule 21; if its separate issues bound together make a bad book, they may be in that form proscribed, as any other book; finally, although it is required by Rule 41 to seek advice and counsel when about to speak on subjects specially connected with faith and morals, yet all its articles and issues are not required to be branded as they are sent forth, as we see from the present Rule.

Another practical question which has arisen is: Whether or not authors and editors of leaflets are expected to attach their names to them? It would appear that they are not. Leaflets are not *libri;* and it is of *libri* there is mention in the Rule.

REGULA XLIV.

Noverint Typographi et Editores librorum, novas ejusdem operis approbati editiones, novam approbationem exigere, hanc insuper textui originali tributam, ejus in aliud idioma versioni non suffragari.

Rule 44 prescribes that new editions of a work already approved of shall require a new approbation. It also prescribes that the approbation given to the original text of any book is not sufficient for its translation into another language.

The present Rule was required in order to render Rule 41 of Chapter III. efficacious: for new editions are oftentimes so enlarged as to be quite different from the original work. In order, therefore, to secure that there be nothing bad either in new editions or translations, they are required to be submitted to ecclesiastical censure and to obtain a new approbation.

The present Rule refers, of course, only to editions and translations of such works as were required in the first instance to be submitted to ecclesiastical censure: for if the original work might have been published without approbation, how could its subsequent editions and translations require approbation?

In treating of Rule 41, we have seen that temperance leaflets of a certain kind are included under the clause *scripta omnia*. The question here suggests itself: When one edition of the leaflet is run out, must a fresh ecclesiastical approval be obtained for a new edition? In answer, it would appear that a fresh *imprimatur* is not required; but that any number may be struck off, on the strength of the former ecclesiastical approval. In the first place they are not *libri*, and it is of *libri* the Rule treats. Then the scope of the Rule is to secure that no addition be made to works already approved by competent ecclesiastical authority: and in the leaflets of which there is question there is presumably no addition whatsoever made.

Regula XLV.

Libri ab Apostolica Sede damnati, ubique gentium prohibiti censeantur et in quodcumque vertantur idioma.

Rule 45 prescribes that books condemned by the Apostolic See are to be considered forbidden throughout the entire world; and translations of them are likewise to be considered forbidden.

This Rule has also been necessary in order that the proscription of books might be enforced with equal rigour in every part of the Church, and in order to prevent proscribed books from evading proscription by being translated; for of what avail could the condemnation of the Church be, unless she were to block once for all the source from which the evil flows forth? or how could the legislation on the Index have ever hoped to kill a bad book, if the book, like the monster in the fable, were to grow stronger at each overthrow? By the present Rule all escape is precluded; when once proscribed there is no resting-ground left the book, and when once overthrown, it cannot hope to rise in another language.

The present Rule does not refer to those books condemned under classes by the general Rules of the Index, nor to those books condemned by a bishop within his diocese, nor to those condemned by a council of bishops for any country or any province, but to those condemned individually with special decrees by the Apostolic See. Nor do all the Sacred Congregations come under the appellation of the Apostolic See. The Congregation of the Propaganda is not included, since there is mention in the Rule of proscription to be observed throughout the world; whereas the jurisdiction of the Propaganda does not extend outside the countries under its administration. The Congregation of the Index, the Congregation of the Supreme Inquisition, and the Congregation of the Holy Office are, however, included. In a word, the books meant are those on the Index.

Regula XLVI.

Quicumque, librorum venditores, praecipue qui catholico nomine gloriantur, libros de obscenis ex professo tractantes neque vendant, neque commodent, neque retineant; ceteros prohibitos venales non habeant, nisi a Sacra Indicis Congregatione veniam per Ordinarium impetraverint, nec cuiquam vendant nisi prudenter existimare possint ab emptore legitime peti.

Rule 46 prescribes that all booksellers, especially those who glory in the Catholic name, are to be careful neither to sell, to lend, nor keep in stock books treating *ex professo* of obscene subjects. Moreover, they are not to keep for sale any other proscribed books, unless they have obtained permission from the Congregation of the Index through the medium of the bishops; nor are they to sell such books to anyone, unless they have good reasons to believe that they have a right to demand them.

The legislator has in the present Rule made a considerable change in the old Tridentine legislation regarding the sale of books. In Rule 10 of the Council of Trent it was prescribed, that every bookseller should keep a list of the books he had in stock, and that the bishop, or one deputed by him, was to visit his shop from time to time, and see that he had no proscribed books for sale. Booksellers, moreover, were not to keep unauthorized books for sale without the permission of the bishop, under pain of sequestration of the said books, and under other penalties to be inflicted at the discretion of the bishop. The readers and printers of such books he might also have punished at his discretion. The legislator, as may be seen, has in the present Rule greatly modified the Tridentine legislation.

Examining the Rule, we perceive that there is a distinction made between two different classes of booksellers; those who glory in the Catholic name are put into one class; all others are assigned to another. Proscribed books are also sorted into two classes: those that treat "*ex professo*" of

licentious subjects stand in one class; the books proscribed under the other Rules of the present Constitution stand in another.

Quicumque librorum venditores.—What booksellers come under those terms? Are we to include in them infidels, heretics, schismatics, as well as Catholics? The terms are general, and therefore as many as are engaged in the sale of books are included.

Praecipue qui Catholico nomine gloriantur.—Although the words of the legislator in the present Rule are directed to all booksellers, of every creed and every nation, yet they are specially intended for those who have the honour of being Catholics.

In the present Rule, therefore, the legislator addresses himself to booksellers of every kind—Jew and gentile,—and declares unto them that whatever be their religious belief, they are bound to abstain from selling books that treat "*ex professo*" of licentious subjects. Such booksellers, however, as lie outside the pale of the Catholic Church,—although, perhaps, subject to his jurisdiction, by reason of having received the sacrament of Baptism—he refrains from binding with any ecclesiastical law; to them he merely declares that they are bound both by the law of God and the law of Nature to abstain from selling or keeping such books. Some booksellers there are who, although nursed in the bosom of the Catholic Church, yet live in open violation of her laws; on such the legislator would lay an ecclesiastical precept, binding them to the observance of the present Rule. Finally, the legislator addresses himself in an especial manner to such booksellers as glory in the Catholic name; who are Catholics not only in words, but also in works; and on them, as faithful and obedient children, he lays an obligation not to sell, lend, or keep books treating "*ex professo*" of licentious subjects.

Do all immoral books come under the present Rule? It would appear that they do not. In Rule 10 we have seen that classic works, though tarnished with the stain of immorality, may be read for the elegance of their style and the exactness of their language, and may be even taught in schools, provided that the objectionable parts have been carefully expurgated. Now such classic works cannot come under the present Rule: for if they did how could they be taught? Where could they be procured? What bookseller would be at liberty to sell them? It would appear, therefore, that the present Rule includes only such immoral books as are condemned under Rule 9.

With the exception, then, of the books condemned under Rule 9 a bookseller may sell all other classes of proscribed books, provided that he has obtained permission to do so from the Congregation of the Index. This permission may be obtained through the medium of the bishop.

What if a bookseller were to seek permission over the bishop's head directly from the Congregation of the Index? In reply I should say that the permission would be valid. But at the same time it may be remarked that the Sacred Congregation is not accustomed to grant such permission without having previously asked and received letters testimonial from the bishop; so that the shortest way in the end would be to seek the desired permission through the medium of the bishop.

Although booksellers have obtained permission to sell proscribed books, yet they cannot use that power indiscriminately; they are not to sell them to any persons except to such as presumably have permission to read them, and, therefore, a right to ask for them. Booksellers are not required by the present Rule to refrain from selling proscribed books until such time as they are *quite certain* that those who ask them may read them; they are required to

wait only until such time, as that they may *prudently believe* that they may read them—for such is the force of the expression *nisi prudenter existimare possint.*

Chapter V.

PUNISHMENTS INFLICTED ON THOSE WHO VIOLATE THE INDEX LEGISLATION.

Reg. 47 Indicis.	Apostolicae Sedis.
Omnes et singuli scienter legentes, sine auctoritate Sedis Apostolicae, libros apostatarum et haereticorum haeresim propugnantes, necnon libros cujusvis auctoris per litteras Apostolicas nominatim prohibitos, eosdemque libros retinentes, imprimentes, et quomodolibet defendentes, excommunicationem ipso facto incurrunt Romano Pontifici speciali modo reservatam.	Excommunicationi latae sententiae speciali modo Romano Pontifici reservatae subjacere declaramus:— Omnes et singulos scienter legentes sine auctoritate Sedis Apostolicae libros eorumdem apostatarum et haereticorum haeresim propugnantes, necnon libros cujusvis auctoris per apostolicas litteras nominatim prohibitos, eosdemque libros retinentes, imprimentes, et quomodolibet defendentes.

Chapter V. is of supreme importance: as it contains the means of enforcing obedience to the Rules of the present Constitution.

Rule 47 is nothing more than a copy of a certain passage of the *Apostolicae Sedis* of Pius IX.; and as both one and the other of them treat of the same matter, and will henceforth be in vigour, I here place them side by side. Since there is scarcely any difference between them, I will confine myself to a running interpretation of what is found fully explained in all text books on censures, and in all commentaries on the *Apostolicae Sedis.*

Rule 47 enumerates the gravest faults that can be committed against the present Rules of the Index; and it inflicts on those that commit them, the most severe punishment that the Church is wont to inflict on those who violate her laws. In former times those who seriously violated the Rules of

the Index, not only had to undergo spiritual punishments, but sometimes also severe temporal ones. Thus the writings of the heretics of the early Church and of the Middle Ages were given to the flames, and they themselves imprisoned until they made a full and public retractation of their erroneous teachings. Even as late as the time of Leo X. we find severe temporal punishments inflicted on those who violated the legislation on the Index. For that Pontiff in his Bull, *Inter Sollicitudines*, published in 1515, prescribed that all persons who should presume to publish books without having previously submitted them to ecclesiastical censure should, besides being excommunicated, suffer the loss of the books, and be fined one hundred ducats. This was at a time, however, when the Church and State were all in all to one another, and there was no one to step in between or separate them. The State was the right hand of the Church, and when the Church pronounced a person guilty the State was ready to use the scourge. But nowadays things are changed. The State has now everywhere separated itself from the Church, and no longer tenders that allegiance and obedience to her, that it did in former times. Accordingly, the legislator in the present legislation has inflicted only purely spiritual punishments, for the violation of the Rules of the Index.

There are three grades of severity in the punishments. The severest is that inflicted by Rule 47, which is excommunication reserved in an especial manner to the Supreme Pontiff, and to be incurred *ipso facto*. The second is that inflicted by Rule 48, which is excommunication reserved to nobody in particular, but like the last, to be incurred *ipso facto*. The third class of punishments are those to be inflicted by the bishop at his discretion for the minor faults against the Rules of the Index, as explained in Rule 49.

For the sake of clearness I will divide my remarks on

the present Rule into four paragraphs. 1°. I will explain the *nature* of the punishment inflicted by it. 2°. I will consider *who* incur it. 3°. I will consider for *what* books and writings they incur it. 4°. I will explain *when* it is that they incur it.

§ 1.

Excommunicatio ipso facto incurrenda, speciali modo Romano Pontifici reservata.

Excommunicatio.—Excommunication is a species of ecclesiastical censure, by which a person is separated from communion with the Church, and thereby deprived of a great many blessings and spiritual advantages. While under the ban of excommunication he cannot receive the sacraments, nor, if a priest, can he administer them without committing mortal sin. He cannot assist at Mass or Benediction, neither can he take part in public processions or other sacred ceremonies; he is, moreover, deprived of all the spiritual advantages accruing to the faithful from the merits of Christ and His saints. After his death his body is not to receive Christian burial; and, lastly, if he be a priest, he is deprived of the use and exercise of all jurisdiction, rendered unfit for any ecclesiastical office, and thereby incapable of receiving or enjoying any ecclesiastical benefice.

Ipso facto incurrenda.—Now, sometimes this heavy penalty is incurred immediately by the very commission of the crime, and sometimes it is incurred only after the formal trial of the culprit and the declaration of the judge. In this we see a slight difference between the way in which the civil power inflicts its punishments and that, in which the Church inflicts hers. The State never punishes without a trial and a proof of the guilt of the culprit; the Church sometimes affixes a sentence and a penalty to the very commission of the crime. Now, when excommunication is thus

affixed, as it were, to the commission of the crime, it is called *excommunicatio ipso facto incurrenda :* and when it is to be incurred only after the declaration of a judge it is called *excommunicatio ferendae sententiae.*

Romano Pontifici reservata.—While the culprit lies under the penalty of excommunication he suffers in a twofold manner : he suffers all the spiritual privations arising from the excommunication itself, and he is at the same time guilty before God of the crime for which it has been inflicted on him. Now, how is he to obtain release from the ban of excommunication ? and how is he to receive pardon of his crime ?

The Sacrament of Penance has been appointed by Almighty God to be the great means of reconciliation for those members of His flock who may have fallen into mortal sin after the reception of Baptism. This sacrament Christ has instituted after the manner of a tribunal ; and at His Ascension into heaven He left His Apostles to act as His vicars and judges in this tribunal. All power in heaven and on earth has been given into His hands ; and so, after the Resurrection, He gave to His Apostles power to forgive and retain all sins, when He breathed on them and said : "*Receive ye the Holy Ghost ; whose sins ye shall forgive they are forgiven, and whose sins ye shall retain they are retained.*" [1]

This jurisdiction over sins, originally conferred by Christ on His Apostles, has been handed down through a long Apostolic succession, and diffused throughout the priesthood by being transmitted from ecclesiastical superiors to their inferiors. It is transmitted by an act of the will ; and, as the will may be restricted in its choice, so it is quite possible that the ecclesiastical

[1] Cf. Conc. Trid., Sess. XIV., cap. i.

superior may reserve certain cases for his own tribunal. This restriction of jurisdiction and reservation for a higher tribunal is what we call *Reservation of Cases*. Some times it is an ecclesiastical censure, such as excommunication, that it reserved for a higher tribunal, and sometimes it is a sin. In the present Rule, however, it is the excommunication that is reserved to the Roman Pontiff. If the person is once released from the excommuuication, any confessor can give absolution from the sin.

Speciali modo.—This expression is thus explained in one of the chapters of the *Apostolicae Sedis*: "A quibus omnibus excommunicationibus hucusque recensitis, absolutionem Romano Pontifici pro tempore *speciali modo reservatam esse* et reservari; et pro ea generalem concessionem absolvendi a casibus et censuris, sive excummunicationibus Romano Pontifici reservatis, nullo facto sufficere declaramus. . . . . Absolvere autem presumentes sine debita facultate, etiam quovis praetextu, excommunicationis vinculo Romano Pontifici reservatae innodatos se esse sciant, dummodo non agatur de mortis articulo, in quo tamen firma sit quoad absolutos obligatio *standi mandatis ecclesiae* si conv aluerint"—i.e., a general concession to absolve in the tribunal of Penance from reserved cases, and even from censures, does not by any means imply a power to absolve from an excommunication, *speciali modo* reserved to the Holy See. Moreover, should any ecclesiastic attempt to absolve from such an excommunication, under any pretext whatsoever, he himself would incur excommunication reserved to the Holy See—except in the case of danger of death; should the person recover from the sickness, he should be under the obligation *standi mandatis ecclesiae.*

As many failed to understand in this explanation of the *Apostolicae Sedis* the meaning of the expression, *standi mandatis ecclesiae*, the following questions were proposed to,

and answered by the Congregation of the Holy Office in 1892:—

I. An obligatio *standi mandatis ecclesiae*, a Bulla *Apostolicae Sedis* imposita, sit sub poena reincidentiae, vel non?

Res.: Affirmative ad primam; negative ad secundum partem.

II. An obligatio *standi mandatis ecclesiae*, in sensu Bullae *Apostolicae Sedis* idem sonat ac obligato se sistendi coram S. Pontifice, vel ab illa debet distingui?

Res.: Obligationem *standi mandatis ecclesiae* importare onus sive per se, sive per confessarium, recurrendi ad summum Pontificem, ejusque mandatis obediendi, vel novam absolutionem petendi ab habente facultatem absolvendi a censuris S. Pontifici *speciali modo* reservatis.

III. An absolutio data in casibus urgentioribus a censuris etiam *Speciali modo* S. Pontifici reservatis, sit directa vel tantum indirecta?

Res.; Affirmative ad primam; negative ad secundam partem.

Summing up then the points of explanation given both in those Responses of the Sacred Congregation and in the *Apostolicae Sedis* itself, we may say that the said expression, *Romano Pontifici speciali modo reservata*, implies four things:—

1°. That in order to absolve from an excommunication reserved in such a manner, general faculties will not suffice; but there will be required special and particular ones. 2°. That any priest at all has power to absolve in the hour of death a penitent for such an excommunication: for, as the Council of Trent declares, in *articulo mortis* there is no reservation. "*Verumtamen pie admondum, ne hac ipsa occasione aliquis pereat, in eadem ecclesia Dei custoditum semper fuit, ut nulla sit reservatio in articulo mortis.*" [1] 3°. That he who should presume to absolve a penitent bound by such an excommunication, without the said faculties, would himself incur excommunication reserved to the Holy See. 4°. That he who has been absolved when in danger of death from such an excommunication is obliged under pain of incurring

[1] Cf. Sess. XIV., cap. vii.

over again the same censure, of recurring either himself, or through his confessor, to the Supreme Pontiff, and of obeying his commands.

§ 2.

LEGENTES . . . . EOSDEMQUE RETINENTES, IMPRIMENTES, ET QUOMODOLIBET DEFENDENTES.

Legentes.—Those alone are said to read a book that scan it with their eyes and understand the language. Hence, he who merely listens to the book being read, or who looks at the words, or pronounces them, without understanding the language, or, lastly, he who recites from memory passages from the book, cannot be said to be reading it. Moreover, it would appear that he who should read a few harmless pages would not come under the extension of the present term.

Retinentes.—The Latin word *retinere* would seem to imply in the *Apostolicae Sedis* and in the present Rule, both ownership and physical possession. Hence, all those who own the book, though it be in the keeping of others, come under the present term; so do those who keep the book, though it do not belong to them. It would appear, moreover, that *retinere* implies the keeping of the book for a length of time in contempt of the law of the Church; if such be the case, then those who take the book and keep it for a certain time to bind it, for instance, will not be included under the present term; neither will those who take and carry it as messengers from one person to another.

Imprimentes.—Under the extent of the term *imprimentes* come all those who knowingly and wittingly take immediate part in the printing of the book. There will, of course, be a great many persons in the printing office, who will be entirely ignorant of the quality of the books passing through the press, and they will be excused from the censure by reason of their ignorance.

Quomodolibet defendentes.—We may defend a book in many ways. As regards the object of our defence: we may defend the doctrine propounded in the book, or we may defend its copies by preventing their falling into the hands of ecclesiastical authority. As regards the manner of defence: we may defend by word of mouth or by writing, we may defend in public or in private. All those manners of defence would seem to come under the terms *quomodolibet defendentes.*

§ 3.

LIBROS APOSTATARUM, ET HAERETICORUM HAERESIM PROPUGNANTES, NECNON LIBROS CUJUSVIS AUCTORIS PER APOSTOLICAS LITTERAS NOMINATIM PROSCRIPTOS.

Libri.—Under this term manuscripts do not come; for we are to interpret the term strictly; and, strictly speaking, manuscripts cannot be said to be books.

Do copies of newspapers come under the extension of this term? This question has been proposed for solution to the Congregation of the Holy Office: I here give the question, with the answer, of the Sacred Congregation:—

An scienter legentes ephemerides propugnantes haeresim, incurrent excommunicationem art ii., Cons. *Apostolicae Sedis.*
RES.—Negative.
Die 27 Aprilis, 1880.

What if the copies were bound into a volume: would they then come under the present Rule? This question has also been proposed to the same Sacred Congregation:—

Utrum scienter legentes publicationes periodicas in fasciculos ligatas, habentes auctorem haereticum et haeresim propugnantes, excommunicationem incurrant de qua Bulla *Apostolicae Sedis.*
RES.—Affirmative.
Die 13 Januarii, 1892.

Apostatarum.—I have already explained at some length in treating of Rule 2, the meaning of the terms *Apostate* and *Heretic.*

Haeresim propugnantes.—The latin words, *propugnare* and *oppugnare* are opposite terms; hence *haeresin propugnare* will be both to propose and openly defend heretical doctrine.

Per apostolicas litteras nominatim prohibitos.[1]—Apostolic letters are those documents that are issued by the Pope in person, or by one of the Sacred Congregations with his signature. They will take the form of either a Bull, a Brief, or an Encyclical; and will generally have towards the end some such phrase as *ideo rem de nostrae potestatis plenitudine decernimus*, or *de apostlica auctoritate decernimus*. The books here spoken of are such as are condemned *by name* in Apostolic letters; the name of the book is given, so, also, is the name of the author, if printed on it.

It is to be remarked that books condemned by name in Apostolic letters are generally condemned under censure; just as the works of apostates and heretics are condemned by the *Apostolicae Sedis* and by the present Rule. Should it happen by any chance that a book were not condemned under censure in an Apostolic letter, it is the opinion of *Il Monitore* that a person might read it without incurring the excommunication threatened in the present Rule:—

Nè basta che il libro sià condannato, come s' è detto direttamente dal Papa; è necessario che sia *nominatamente* condannato. E giustamente aggiungono i D.D. che dev' essere tale libro condannato anche sotto scommunica, non bastando una simplice condanna.[2]

§ 4.

Scienter, sine auctoritate Sedis Apostolicae.

Scienter.—Before a person can incur the excommunication threatened by the present Rule he must be aware—1°. That the book is by an apostate or heretic in the sense already

[1] The works condemned by "Apostolic Letters" will be seen in the Index of Proscribed Books marked with a cross +.

[2] *Il Monitore*, pag. 98.

explained; or else that it is a book condemned by name in an Apostolic letter. 2°. That the book proposes and defends heresy. 3°. That the book has been forbidden under the pain of censure. And this holds good for *retinentes*, *imprimentes*, and *quomodolibet defendentes*, as well as for *legentes*: since, according to the grammatical construction of the Rule, the adverb *scienter* qualifies them all. That it is necessary that one should be aware of these three facts becomes quite evident from an inspection of the Rule itself.

Now, will any kind of ignorance of any one of those facts save a person from incurring this censure? It would appear that any kind of ignorance, even that which is called *affectata*, will excuse a person from incurring the said censure. The commentators on the *Apostolicae Sedis* and on the present Rule would excuse a person from the censure who would in any way be ignorant of it. P. Arndt, S.J., thus writes[1]:—

Ab hoc censura, etsi non a culpa mortali, excusat non solum crassa et supina, sed etiam affectata ignorantia.

Il Monitore thus writes [2]:—

Basta in ciò a scusare qualunque ignoranza, non solo invincibile o crassa, ma si ancora probabilmente affetata.

L'Abbé Pèries writes [3]:—

L'ignorance invincibile, l'ignorance même dite "*crassa*" (sive juris sive facti) et selon certains auteurs jusqu'à l'ignorance affectée, suffiraient à exempter de la censure.

In illustration I should say that the Latin word *scire* would seem to exclude everything like doubt and uncertainty. Nothing can be regarded as belonging to *scientia* except what is seen, as it were, by the intellect, and thereby known with certainty.

Omnis scientia [says the Angelical [4]] *habetur per aliqua principia per se nota et per consequens visa: et ideo oportet quaecumque sunt scita aliquo modo esse visa.*

[1] *De lib. Prohib.*, pag. 217.
[2] Cf. pag. 99.
[3] Cf. pag. 222.
[4] Cf. II.-II. 1, 5.

Hence, if certainty be one of the essential requisites for the conclusions of a science, the word *scienter* in the present Rule will naturally exclude all doubt and uncertainty.

Sine auctoritate Sedis Apostolicae.—With the permission, however, of the Apostolic See, the books mentioned in the present Rule may be read with impunity. How that permission may be obtained, the legislator has already explained at length in Chapter IX.

REGULA XLVIII.

Qui sine Ordinarii approbatione Sacrarum Scripturarum libros, vel earumdem adnotationes vel commentarios imprimunt, aut imprimi faciunt, incidunt ipso facto in excommunicationem nemini reservatam.

Rule 48 declares that those that should print or get printed books of the Sacred Scriptures, or annotations to, or commentaries on them, without the approbation of the Ordinary, shall, *ipso facto*, incur excommunication, reserved, however, to nobody in particular.

We have just seen that the last Rule is nothing more than a transcript of a passage of the *Apostolicae Sedis* of Pius IX. We shall see that the present Rule has been framed partly after the model of another passage of the same Constitution, and partly after a decree of the Council of Trent. In order that the change made may be clearly seen, I here place the said passages side by side:—

COUNCIL TRID., SESS. IV.	APOSTOLICAE SEDIS.
Nulli liceat *imprimere* aut *imprimi facere*, quosvis libros de *rebus sacris* sine nomine auctoris, neque illos in futurum *vendere*, aut etiam *apud se retinere* nisi primum examinati probatique fuerint ab Ordinario, sub poena anathematis.	Praeter hos hactenus recensitos eos quoque quos Sacrosanctum Concilium Tridentinum . . . excommunicavit, Nos pariter ita excommunicatos esse declaramus; excepta anathematis poena in Decreta Sess. IV., *De Editione et usu Sacrorum Librorum*, cui illos tantum subjacere volumus, qui libros de rebus sacris tractantes, sine Ordinarii approbatione *imprimunt* aut *imprimi faciunt*.

On comparing this passage of the *Apostolicae Sedis* with the decree of the Council of Trent, we see that Pius IX. mollified considerably the Tridentine law. The law of the Council of Trent extended to *vendentes* and *apud se retinentes*, as well as to *imprimentes* and *imprimi facientes*; Pius IX. excluded *vendentes* and *apud se retinentes*. Directing our attention to the present Rule, we see at once the change that the legislator has introduced; he has specified and clearly defined the meaning of the terms *libros de rebus sacris*, which occur in the Tridentine law and in the *Apostolicae Sedis*, by substituting the words *libros Sacrarum Scripturarum, vel earumdem annotationes vel commentarios.*

Imprimentes et imprimi facientes.—I have already explained, in the foregoing Rule, the meaning of the term *imprimentes*. A word in explanation of *imprimi facientes*. Those terms refer to and include those persons who get the book printed; and they refer especially to the author and to the editor, as it is they that generally have the principal part in the printing of books. It would appear, however, that the author would not be included, did he sell his manuscript before being printed, even though he did it under the condition that it should be subsequently printed and published: for in such a supposition how could he be said to have a hand in the printing of the book?

Regula XLIX.

Qui vero cetera transgressi fuerint, quae his Decretis Generalibus praecipiuntur, pro diversa reatus gravitate serio ab Episcopo moneantur; et si opportunum videbitur, canonicis etiam poenis coerceantur.

In Rule 49 the legislator prescribes that all those who violate the present Rules of the Index in matters other than those mentioned in the two preceding Rules, are to be first

seriously admonished by their bishop of the gravity of their fault, and that, should the bishop afterwards consider it advisable, he is to inflict on them canonical punishment.

THE END.

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